

**SCHOOL CITY OF HOBART  
BOARD OF SCHOOL TRUSTEES  
REGULAR SESSION MINUTES  
February 18, 2021**

The Board of School Trustees of the School City of Hobart met in regular session on February 18, 2021, in the Board Room at Hobart High School, 2211 East Tenth Street, Hobart, Indiana.

**ROLL CALL:** Terry Butler asked Board Members to log in. The following Board Members and Administrators were present or absent as noted:

Board Members Present:

Terry D. Butler  
Karen J. Robbins  
Sandra J. Hillan  
Frank Porras  
Donald H. Rogers  
Stuart B. Schultz  
Kelsey Black, HHS student representative  
Lauren Cicillian, HHS student representative

Administrators Present:

Peggy Buffington  
Ted Zembala  
Christopher N. King  
William J. Longer  
Jonathan Mock  
Tim Krieg

Board Member Present Electronically:

Rikki A. Guthrie

President Butler told the audience that Rikki Guthrie was attending the meeting electronically via Zoom, which was allowed in Executive Orders issued by the Governor.

**ADDITION TO THE AGENDA:** President Butler indicated that an item had been added to the agenda and was titled, Overnight/Extended Student Trip: Key Club State Convention.

**EXECUTIVE SESSION:** Terry Butler, President, indicated that the Board met in executive session prior to the regular session. The executive session was held in accordance with I.C. 5-14-1.5-6.1(b)(1) where authorized by federal or state statute; and (2) for discussion of strategy with respect to: (B) initiation of litigation or litigation which is either pending or has been threatened specifically in writing; and (6) with respect to any individual over whom the governing body has jurisdiction (B) to discuss, before a determination, that individual's status as an employee, a student, or an independent contractor who is: (i) a physician, or (ii) a school bus driver.

**CALL TO ORDER:** Terry Butler, President, called the meeting to order around 7:13 p.m.

**PLEDGE OF ALLEGIANCE:** President Butler led everyone present in reciting the Pledge of Allegiance.

**AUDIENCE:** The following were present in the audience:

Tina Anderson, Student Council sponsor at Joan Martin School  
CJ Carlson, Joan Martin School student and his family  
Samantha Paterson, JROTC cadet at Hobart High School  
Paige Bordowitz, JROTC cadet at Hobart High School  
Lt. Col. Scott Buhmann, JROTC instructor at Hobart High School

**APPROVAL OF MINUTES:** Stuart Schultz moved that the Board approve the executive session and regular session minutes of February 4, 2021. Seconded by Karen Robbins. Vote on motion: Aye – Schultz, Porras, Rogers, Hillan, Guthrie, Robbins, and Butler. Motion carried 7-0 in favor.

**FINANCIAL REPORTS:** Ted Zembala, Business Manager, presented the following for the Board's consideration and recommended approval:

- Vouchers for February 18, 2021 - Kelsey Black and Lauren Cicillian, HHS student representatives, shared the reading of the accounts payable voucher summary with Kelsey reading the first portion and Lauren the last portion, as follows:

School Education Fund \$1,128,784.47  
Operating Referendum Fund \$63,623.35  
School Operations Fund \$365,086.00  
Construction Fund 700 \$156,884.00

Construction Fund 701 \$22,505.00  
School Lunch \$79,756.23  
Textbook Rental Fund \$444,166.93  
Self-Insurance Fund \$503,102.82  
Indiana Literacy and Early Intervention \$6,038.83  
Community Gifts and Donations \$9,822.29  
Building Brickies \$2,758.25  
Eat, Play and Learn Project \$230.00  
Medicaid Reimbursement Federal \$175.60  
Fed Stimulus-18003 Ed Stabilization Relief \$9,279.34  
Clearing Accounts \$400,819.04  
Self-Insurance Clearing \$23,237.39  
Clearing/Flexible Benefits AF \$47,916.28  
Clearing/Insurance Account \$4,548.05  
Credit Card Fee Clearing \$161.58

for a total of \$3,268,895.45. The January payroll distribution by the school corporation's treasurer was \$1,584,295.49.

Donald Rogers moved that the Board approve payment of the vouchers for February 18, 2021. Karen Robbins seconded. Vote on motion: Aye – Schultz, Porras, Rogers, Hillan, Guthrie, Robbins, and Butler. Motion carried 7-0 in favor.

In addition, the Board received copies of the following monthly budget reports, dated January 31, 2021, in their electronic Board packet: Analysis by Object, Estimated Revenue by Account, Summary of Balances by Account-Object, and Summary of Receipts and Expenditures.

**COMMENTS ON AGENDA ITEMS:** There were no comments from the audience on the listed agenda items.

**PERSONNEL:** Jonathan Mock, Director of Human Resources and Compliance, indicated the Personnel Report was included in the electronic meeting packet for the Board's consideration.

Mr. Mock recommended approval and requested Board action.

Karen Robbins moved that the Board approve the Personnel Report as presented. Seconded by Stuart Schultz. Vote on motion: Aye – Schultz, Porras, Rogers, Hillan, Guthrie, Robbins, and Butler. Motion carried 7-0 in favor.

The approved personnel items are as follows:

Homebound Teaching Contracts –

January 19/June 10, 2021: Laura Weller, math, one hour per week, and ILEARN & PSAT testing, ten hours total for testing, \$43.65 per hour

January 19/June 10, 2021: Laura Weller, math, one hour per week, and ILEARN testing, ten hours total for testing, \$43.65 per hour

Request for Leave of Absence –

Sherry Finnerty, Joan Martin School/teacher, FMLA, intermittent usage beginning February 1, 2021, up to 60 days

**RECOGNITION: Joan Martin Students:** Superintendent Peggy Buffington welcomed CJ Carlson from Joan Martin School and Tina Anderson, Student Council sponsor, to the Board meeting. In addition, she welcomed other Joan Martin School Student Council members to the meeting via Zoom. She expressed her regrets that all of them could not attend the Board meeting in person, but with the COVID regulations, it was not possible. She indicated the CJ Carlson was representing their group, and she was very proud of all of their efforts in supporting the Hobart Humane Society and their animals with needed supplies and monetary donations.

Tina Anderson told the Board that at the January meeting of the Student Council they discussed how they could help people, especially during the pandemic. They decided to help the animals at the Hobart Humane Society by supplying the shelter with the necessary items they needed. The supply drive ran for one month from January 11 to February 11. Ms. Anderson noted that brown paper bags donated by Stracks were sent home with a list of things the shelter needed. The Joan Martin students were asked to challenge family and friends to help them fill their bags, and then return their bags to the school. All the students were excited

about the project and helping the animals. In addition, Mrs. Anderson said that CJ Carlson, a fourth grader, prepared a video with parental approval that was posted on Facebook seeking donations for the shelter. She noted he raised over \$500 for the shelter to use to purchase items from their “need list” as well as a \$50 Amazon gift card for an emergency when needed. Mrs. Anderson said CJ went “above and beyond”, and she was appreciative of his efforts.

On behalf of the Board and Dr. Buffington, Dr. Buffington presented CJ with a certificate of recognition. CJ read the certificate aloud, and Dr. Buffington told those present on Zoom that their certificates were mailed today so they should watch for them. Mrs. Anderson received a certificate, and she took the certificate for Rebecca Williams, the other sponsor of the Student Council, who was not able to attend the meeting.

Board members extended their congratulations and appreciation to CJ Carlson and all of the Student Council members for their service to the Hobart Humane Society. CJ was asked who helped him with his video and how much he raised. He indicated that his mother assisted him and he raised \$561 plus the Amazon gift card. There were a couple of questions for the Zoom attendees. Dr. Buffington told the students that this was the first student recognition the Board has had since the COVID restrictions, and it was very appropriate that it recognized their hard work and service. She told the students that everyone was very proud of them and their families and friends who supported their efforts. Karen Robbins told the students that community service was something that she has a heart for and told them to “keep up the good work”, and she knew that they would continue to help and serve during their school years and as adults. She noted that there would always be worthwhile organizations that need volunteer help.

President Butler asked the audience members to remain for the next agenda item.

**PRESENTATION: JROTC Fundraiser for Hobart Food Pantry:** Dr. Peggy Buffington welcomed JROTC cadets, Paige Bordowitz and Samantha Paterson, and their sponsor, Lt. Col. Scott Buhmann to the meeting. She indicated that cadets would be making a presentation about this year’s JROTC service learning project.

Paige Bordowitz, Samantha Paterson, and Lauren Cicillian, HHS student representative on the Board, indicated that the JROTC senior service learning project this year would be the donation of the proceeds from their annual mattress fundraiser to support the Hobart Food Pantry. The sale will be on Sunday, March 14, in the Fieldhouse at Hobart High School from 10:00 a.m. to 5:00 p.m. They noted because of COVID-19, the food pantry was not able to conduct their usual two community-wide food drives, and it was mentioned there was an increase in the number families being served on a weekly basis to around 180 families. In addition, the food pantry exists solely on donations and with the help of volunteer workers. The cadets explained that before COVID, their service learning project was teaching the Junior Achievement curriculum for grades one through five at the elementary schools. They spoke about their marketing/advertising campaign for the sale. One of the things they did was to show those present how to text to reach their Facebook page to receive information about the sale, and they were asked to share the post with family and friends. The other marketing item was a promotional video that the cadets produced about the sale that was shown at the meeting. In addition, it was noted that virtual shopping could be done, and people would be able to purchase pillows and sheets or make monetary donations for the food pantry. COVID protocols were also shared: wearing of masks, social distancing, and sanitizing between customers would be done. The saying “Hobart Helping Hobart” was noted throughout their presentation. They asked the Board and Dr. Buffington for further assistance in advertising the mattress sale. They asked if large double-sided signs/banners could be placed at the Service Center and the high school and whether the sale could be advertised on the district’s social media sites, via email to staff, and possibly a Messenger call to parents. Lt. Col. Buhmann indicated that the average life of a mattress was around ten years so one out of every ten persons may be in need of a new mattress, which is the reason to reach as many people as possible. He noted that JROTC had earned from \$5,000 – \$7,000 each year from this fundraiser. Even though Dr. Buffington indicated maintenance employees could install the signs, Col. Buhmann volunteered the services of the cadets to this. In addition, they have a supply of yard signs advertising the sale. In the discussion, it was noted that Joan Martin and Veterans Schools would excellent places to have the double-sided signs, too, because of the large amount of vehicles that pass the schools each day. Dr. Buffington asked the cadets to send her their media information, and she would have Mrs. Sarah Ramos post it on the district’s website and social media. She would email the information to all the district’s employees, and a Messenger call could be made to parents.

There was some discussion along with their presentation. The Board thanked the cadets for the outstanding presentation and congratulated them on their service learning project. Terry Butler commented that service learning begins at the elementary level and continues through the students’ educational careers. Don Rogers surprised the cadets with a \$1,000.00 donation to kick off the fundraiser supporting the Hobart Food Pantry. Karen Robbins, who is also treasurer for the Hobart Food Pantry, expressed her appreciation to the

cadets for their support and noted the food pantry's annual food drives could not have been done without their assistance, and she thanked them for all that they have done and were doing for the food pantry.

President Butler invited the audience to stay for the remainder of the meeting, but he excused anyone who needed to leave. No one remained in the audience.

**CONSIDERATION: Consideration to accept an Underwriter and Placement Agent Engagement**

**Letter:** Dr. Peggy Buffington indicated that the purpose of this Engagement Letter was to allow Stifel, Nicolaus & Company, Inc. to provide services for projected financial planning and looking beyond when the high school project will be paid off in December of 2028. She noted that Jim Elizondo, from Stifel and City Securities before that, had provided great strategies for all of the district's projects. He'll be looking at the district's borrowing power and long-range projects. She noted that taking the alternate bids on the Veterans project depleted the capital project funds, and projects still needed to be done such as parking lots, new turf at the high school, as well as technology and maintenance needs. She noted it was important for the Board to be "good stewards" to maintain the tax rate while planning for the future. She thought the Board could be looking at putting a facility south of the high school and what the next steps would be. Dr. Buffington noted she had mentioned to the Mayor about the potential for the project when the high school debt rolls off and what that might mean for the 8th Street property. She noted the middle school was "land locked", and it would be difficult to add classroom space to the school. Dr. Buffington said Lake George was being used by the community, and as a quality of life aspect, what its future might be and what the district's options might be for this property. The financial aspects need to be reviewed and she noted staff was busy reviewing necessary Capital Projects. Dr. Buffington commented on the necessity to "get in front" of the planning and be able to discuss it with Mr. Elizondo.

Dr. Buffington requested Board action.

Karen Robbins moved that the Board approve and accept the Underwriter and Placement Agent Engagement Letter with Stifel, Nicolaus & Company, Inc. and authorize the Superintendent to sign the engagement letter on behalf of the School City of Hobart. Donald Rogers seconded.

In the discussion, Terry Butler noted that the roofs that were replaced eleven years ago have a life cycle of 15-20 years and continued building maintenance was an important factor in planning. He indicated that one housing project along 61st Avenue was building homes and two more would begin development in the near future. He thought one of the projects might be in the Merrillville school district. Sandi Hillan indicated that the third project was behind the church on 61st Avenue so it would be in our school district. It was noted another building boom may be coming, and there was no room to expand at the middle school.

Vote on motion: Aye – Schultz, Porras, Rogers, Hillan, Guthrie, Robbins, and Butler. Motion carried 7-0 in favor.

**BOARD POLICY CONSIDERATION: First Reading of Resolution Adopting Updates for Hobart**

**School Board Policy:** William Longer, School Board Attorney, presented Resolution No. 2021-6 for updates to Board policy. He explained the changes and adoption process of changes in the comprehensive document entitled "Bylaws and Policies of the School City of Hobart." Mr. Longer indicated that the possible changes were reviewed and discussed at the work session prior to the regular session meeting, and this was the first reading for the proposed changes. The second reading and possible adoption would be an agenda item at the March 4 Board meeting.

Vice President Karen Robbins read the title of Resolution No. 2021-6 aloud, as follows:

School City of Hobart  
Board of School Trustees

Resolution No. 2021-6

A Resolution Approving Amendments to the Bylaws and  
Policies of the Board of School Trustees of the School City of Hobart

(A copy of Resolution No. 2021-6 is attached to the minutes of this meeting.)

President Butler then called for a motion and roll call vote.

Sandra Hillan moved that the Board adopt Resolution No. 2021-6 for the bylaws and policies changes in the comprehensive document entitled "Bylaws and Policies of the School City of Hobart" and move the second

reading and possible adoption to the March 4, 2021, Board meeting. Frank Porras seconded. Vote on motion: Vice President Karen Robbins called roll on the vote, as follows: Aye – Schultz, Porras, Rogers, Hillan, Guthrie, Robbins, and Butler. Nay – No one. Motion carried 7-0 in favor.

**RESOLUTION: Resolution No. 2021-7 Pertaining to the Establishment of Education Savings**

**Accounts:** Dr. Peggy Buffington presented Resolution No. 2021-7 that was prepared by the Indiana School Boards Association (ISBA) opposing legislation pertaining to the establishment of Education Savings Accounts. Dr. Buffington indicated that the Board was a member of the ISBA and school boards across the state were asked to adopt the resolution and send a copy to their respective legislators. Dr. Buffington indicated the education savings accounts would allow state funding for parents who withdraw their students from public schools “to pay for private school tuition, unregulated home schools, and educational service such as tutoring.” There is oversight and transparency for public schools but this is not true for non-public schools. All schools receiving public funds should have to uphold the same standards. The funding of the savings accounts would syphon funds from the state’s K-12 tuition support at the expense of the public schools for a voucher system. The resolution opposed HB 1005 and SB 412, and everyone was asked to call their legislators.

Vice President Karen Robbins read the title of Resolution No. 2021 aloud, as follows:

Resolution No. 2021-7  
Opposing and Condemning the Establishment  
of Education Savings Accounts

Stuart Schultz moved that the Board adopt Resolution No. 2021-7, as presented. Seconded by Donald Rogers. Vote on motion: Vice President Karen Robbins called roll on the vote, as follows: Aye – Schultz, Porras, Rogers, Hillan, Guthrie, Robbins, and Butler. Nay – No one. Motion carried 7-0 in favor.

Resolution No. 2021-7, as presented and adopted, is as follows

Resolution No. 2021-7  
Opposing and Condemning the Establishment  
of Education Savings Accounts

WHEREAS, the Indiana General Assembly during the 2021 legislative session is considering the establishment of education savings accounts (ESAs) that funnel state funding to parents who withdraw their children from public schools.

WHEREAS, education savings accounts give parents the equivalent of a taxpayer-funded debit card to pay for private school tuition, unregulated home schools, and educational services such as tutoring.

WHEREAS, public funds should be invested in public schools, which serve all children.

WHEREAS, public schools are subject to fiscal transparency, public oversight, and taxpayer accountability. Non-public schools are not. All schools that receive public funds should be held to the same set of standards.

WHEREAS, education savings accounts would be funded out of the K-12 tuition support appropriation at the expense of public schools and would consume much of Governor Holcomb’s recommended tuition support increase of two (2) and one (1) percent for Fiscal Year 2022 and Fiscal Year 2023, respectively.

WHEREAS, House Bill 1005 seeks to create an education savings account scheme to be called the “Indiana education scholarship account program”.

WHEREAS, Senate Bill 412 seeks to create an education savings account scheme to be known as the “Indiana personalized education grant program”.

NOW, THEREFORE, Be It Resolved, that the Board of School Trustees of the School City of Hobart opposes and condemns the establishment of education savings accounts as proposed by members of Indiana’s General Assembly in House Bill 1005 and Senate Bill 412.

Approved this \_18th\_\_ day of February, 2021.

BOARD OF SCHOOL TRUSTEES  
SCHOOL CITY OF HOBART

By \_\_\_\_\_  
Terry D. Butler, President

ATTEST:

\_\_\_\_\_  
Rikki A. Guthrie, Secretary

**REPORT and RATIFICATION: Property Purchase:** Superintendent Peggy Buffington noted that at the February 4, 2021, Board meeting, the Board adopted Resolution No. 2021-5 that was included in the electronic meeting packet. She indicated the resolution declared an emergency and authorized the purchase of real estate adjacent to property at Liberty School and was located at 129 North Liberty Street. The property was being sold at a Sheriff's Sale on February 5, 2021, and the Board authorized her to purchase the property for an amount not to exceed \$136,500, the approximate fair market value of the property. Dr. Buffington reported she "had a great time" and purchased the property for \$105,000, which was under the assess value of the property.

The Board was asked to ratify the actions of the Superintendent for the purchase of property at 129 North Liberty Street, Hobart, Indiana, for \$105,000.

Karen Robbins moved that the Board ratify the actions of the Superintendent for the purchase of property at 129 North Liberty Street, Hobart, Indiana. Stuart Schultz seconded.

In the discussion, Dr. Buffington noted that a cashier's check was delivered after the sale and said the deed could be picked up in two to three weeks. She expressed her appreciation to the Board for purchasing the property. She said the home was going to be "bulldozed." Mr. Perry would like to keep the garage, but she was still thinking about that. Ted Zembala indicated the property was insured after the sale. With the purchase of the property by the high school, President Butler wondered if the Board should possibly consider selling the Fleming Street property. It was noted that property values were increasing.

Vote on motion: Aye – Schultz, Porras, Rogers, Hillan, Guthrie, Robbins, and Butler. Motion carried 7-0 in favor.

**REPORT: Protect Brickies Plan Update:** Superintendent Peggy Buffington reviewed the Return to Learn 2020-2021 Protect Brickies Plan Addendum. The Addendum was a supplement of changes to the original plan, and if something was not indicated in the Addendum, reference to the original Protect Brickies Plan was suggested. The Addendum incorporated the recent Executive Order updates from the Governor that dealt with social distancing. Social distancing in classrooms was reduced to three feet. Masks are still required, but this would allow the district to bring back students. She noted that Tim Krieg and Jon Mock assisted her with the updated addendum that was shown on the screens in the Board Room. The ten headings are as follows and information and/or some of the comments mentioned are listed under each respective heading:

- 1. ADDRESSING COMMUNITY SPREAD IN SCHOOL CITY OF HOBART COMMUNITY  
(As guided by local Health Department, State Health Department, and CDC)  
Lake County was now in the Yellow category – which caps spectators at 50% capacity for athletic and extracurricular activities. The chart colors were selected by Board of Health, not the school district. Comments about not being able to read information in the yellow category had been made. Originally, the Lake County Board of Health had five feet for social distancing in the classroom, and then changed to six feet the end of July and 50% capacity or use the hybrid model. Dr. Buffington and Jon Mock changed classroom seating to 6 feet before school started.
- 2. EXPECT EACH BRICKIE FAMILY TO ASSUME PERSONAL RESPONSIBILITY TO PROTECT BRICKIES—MYSELF, OTHERS, OUR HOBART COMMUNITY  
Create a culture of safety and accountability through a united pledge

- 3. OFFER INSTRUCTIONAL INSTRUCTION OPTIONS FOR STUDENTS DURING COVID-19

Conducted Survey for Parents and Guardians of Permanent E-Learners. The dates of survey: February 10/19, 2021, and was for full-time E-Learning students (not temporary) regarding the remainder of the 2020-2021 school year. The School City of Hobart asked each household to assess their children's online performance. If the household was not at risk and the E-Learning platform was not working for their child(ren), please make the decision to return to school. The School City of Hobart will ensure each household has answered the survey. The School City of Hobart would use the survey results to refurbish classrooms with furniture to accommodate the "new" three feet social distancing permitted in classrooms following the guidelines according to the Governor's Executive Order 21-02. Students would be invited back as soon as classrooms were ready to accommodate the class size changes.

It was noted the survey ends tomorrow, and the offer for students to come back for the rest of the school year, especially for those students who are having a difficult time with E-Learning and need the environment of in-person schooling. It was noted that the middle school was very good at bringing back students at the beginning of the second semester.

- 4. IMPLEMENT PERSONAL HEALTH SAFETY PRACTICES AND PROTOCOLS

Know the symptoms and self-screen daily  
Masks, Good Hygiene, and Personal Space  
Large Group Gatherings  
When a Child, Staff Member, or Visitor Becomes Sick at School  
Covid-19 Guidance for Symptomatic Teacher, Student, or Staff  
Exclusion from School and Return to School  
Vaccination

Student attendance must be reported in Skyward and COVID-19 symptoms must be reported to Jamie Noel, Coordinator of Student Health Services. It was noted that the COVID Clinic in each school building would have a supply of BinaxNOW Antigen Tests, and the National Guard would be coming in to train our nurses about them. Dr. Buffington noted there now was an option to quarantine for ten days, but she indicated the district had chosen to remain with the 14-day quarantine instead. The school district will communicate the availability/eligibility to all stakeholders weekly.

- 5. ENACT HEALTH SAFETY CHANGES IN PHYSICAL SPACES, FOOD SERVICES, AND TRANSPORTATION

Classrooms, cafeteria, gymnasiums, etc. will be adjusted to allow for safe social distancing, with an enhanced commitment to health and safety for our community  
Classroom Social Distancing of three feet guidelines  
Classrooms Where Social Distancing of six feet is required  
Social Distancing of six feet is required in athletics and extra-curricular clubs  
Social Distancing of six feet is required during lunch and recess  
\*Contact tracing guidelines

It was noted that social distancing in all classrooms had changed to three feet, facing forward and wearing a mask, except for physical education, theatre and drama, choir, and band stay at six feet, as well as during lunch and recess periods. It was noted that teachers would not be jeopardized. They will social distance at six-feet and have wireless microphones, and appropriate PPE.

- 6. TEACHING AND LEARNING

No Changes – Refer to original Protect Brickies Plan

- 7. SOCIAL EMOTIONAL LEARNING

No changes – Refer to original Protect Brickies Plan

- 8. EXTRA-CURRICULARS, CO-CURRICULARS, AND CLUBS

Staff and students will follow any protocol changes guided by the Local Board of Health

- 9. ANTICIPATE AND PLAN FOR CONTINGENCIES

Plan for an outbreak of COVID-19

If Community Spread is High:

Plan extensively for the possibility of a significant outbreak of COVID-19 within the school buildings.

The Protect Brickies Team has a range of contingency plans based on situations and circumstances that might occur, and that may require the School City of Hobart to pause or shut down some or all of our activities. It was noted that students follow the rules at school but may not do so outside of school. If the community went to red, there would be few options, and the school district might have to look at a potential closer. Dr. Buffington was not a supporter of the hybrid model.

With vaccinations now in the process, we may be getting closer to “herd immunity”.

- 10. ENGAGING OUR STATEHOLDERS WITH CONSISTENT, COMPELLING, AND TIMELY COMMUNICATION AND CLEAR GUIDANCE

Communication: Create and disseminate engaging and meaningful collateral around the Protect Brickies Plan utilizing the School City of Hobart website, social media, Skyward, and the Messenger call system. Dr. Buffington would continue to send her Weekly Protect Brickies Updates.

- Updates to the Protect Brickies Plan Addendum

Added Clarification: “These changes DO NOT apply in PE classes, extra-curriculars, co-curriculars, athletics, recess, lunch, or snack time.”

President Butler told the Board that he and Dr. Buffington had discussed whether the Board should vote on the addendum, but he did not think it was necessary to vote on the addendum because the Plan was already in place. The addendum would be posted on the district’s website.

**OVERNIGHT/EXTENDED STUDENT TRIP: Key Club State Convention:** Dr. Peggy Buffington presented a request from Heidi Polizotto, sponsor of the high school's Key Club, for five Key Club members to attend the state leadership convention at the Drury Lane Hotel in Indianapolis, IN on February 26 to February 28, 2021. They will travel by school bus, and Mrs. Polizotto will be in charge. Dr. Buffington apologized for the lateness of the paperwork for the trip, noted that the Key Club “does an amazing job,” and indicated the convention was “a worthy event to attend.” She and Mrs. Polizotto discussed and reviewed the COVID precautions that would be in place at the convention.

Dr. Buffington recommended Board approval and requested Board action.

Karen Robbins moved that the Board approve the overnight study trip for the Key club to attend their state leadership convention in Indianapolis. Sandra Hillan seconded.

In the discussion the Board appreciated the work done about the COVID precautions for the live convention.

Vote on motion: Aye – Schultz, Porras, Rogers, Hillan, Guthrie, Robbins, and Butler. Motion carried 7-0 in favor.

**UPDATES/ANNOUNCEMENTS/REPORTS:** The Board received the following information:

- School Information – weekly agendas from the schools and the weekly BricksCenter newsletter. Dr. Buffington indicated that they are working on some potential allowable end of year activities for students. She said she would keep the Board updated.

- Upcoming Activities/Events – the latest list of upcoming activities/events.

**COMMENTS:** From the administration, Peggy Buffington gave “shout out to the maintenance department” for all of their work on the parking lots and sidewalks at all of the school facilities. Everything looked good, but the city was not in as good of shape, and she had worked with the city so the streets were safe and passible for the school buses. She acknowledged Tim Krieg for receiving his doctorate degree. She said she was “proud of him for that big step.” She noted he had worked hard to achieve his goal and was “glad he was a part of the team.” She thanked everyone for their hard work and noted they throw in a little



fun along the way. She thanked her administrative assistants who deal with her schedule and requests, as well as Jon Mock and Chris King for all they do. She noted that Chris King gets what she wants to accomplish and makes it come to fruition for the good of the students and staff. She said they would be unveiling a project at the high school that she has wanted to do for ten years. She extended her thanks and appreciation to Bill Longer for always being available to speak with her and noted he keeps the district in “good shape.” Chris King was glad to see the students at the meeting and hearing their presentations. He complimented Lauren Cicillian and her fellow cadets on their outstanding community service in helping those in need through the Hobart Food Pantry. Bill Longer told the Board he was working on getting the title and the deed recorded for the new property purchase. On a sad note, he mentioned that Cheryl Govert who worked in the Clerk-Treasurer’s Office at City Hall had passed away. The pandemic was brought closer because her passing. The Board and administrators expressed their condolences to her family. Mr. Longer noted she was “a bright spot in the Clerk’s Office.” Jon Mock echoed comments made and appreciated the efforts that went into the consideration of having school or not. Safety always was the prime concern and can cause some late nights or early mornings. He extended his congratulations to Dr. Krieg. Ted Zembala also extended his congratulations to Tim Krieg on his Ph.D. He enjoyed seeing the student presentations and noted they were making a difference in the Hobart community. He complimented Dr. Buffington and all of her efforts of going way above in providing measures to protect students and staff during the COVID-19 pandemic. Tim Krieg thanked everyone and noted that Dr. Buffington assisted him as he navigated through the process of selecting the school and then the coursework. He did a lot of research on the history of public education and had meetings with superintendents who had ten or more years of experience. Main areas of discussion centered on the same areas of concerns. He said he liked the “Hobart Helping Hobart” saying and noted that the Joan Martin students were doing that also. He appreciated all of the congratulations that he had received.

From the Board, Rikki Guthrie thanked Chris King for setting up the meeting for her. She indicated the student presentations were outstanding and the recognition was very deserving and noted, “That’s what Hobart is about” giving back and helping the community. She extended her thanks to the administration “for making things bearable” and to everyone “for all your thoughts and prayers.” Stu Schultz extended his congratulations to Tim Krieg and thanked everyone for all of the work they do. He extended his compliments to Lauren Cicillian and the JROTC for what they are doing for the Hobart Food Pantry and to CJ and his team at Joan Martin School for supporting the Hobart Humane Society. Frank Porras extended his congratulations to Dr. Krieg. He enjoyed the presentations and wished Lauren Cicillian and the JROTC the best of luck with their mattress sale. He noted he did not need a mattress but might need some sheets. Don Rogers expressed his appreciation for what everyone has done and the maintenance department for all of the snow mounds they had made with the snow removal. Sandi Hillan noted it was refreshing “to have the student presentations” and jokingly commented how exciting Board policy was. She thanked Mr. Longer, Mr. Mock, and Dr. Buffington for making the review easier for them. Dr. Buffington noted that they have a good routine and meeting with Bill Longer prior to meeting with the Board makes everything a little easier. She noted that Mr. Longer was a great Board Attorney. Kelsey Black extended her congratulations to Dr. Krieg. She appreciated the Joan Martin student’s social media presentation, especially for his age, and she thanked the JROTC through Lauren Cicillian for all that they do for the school and community. She offered her thanks to Dr. Buffington and the Board for allowing students to attend school this year, and she was grateful for being able to do this. In addition, she expressed her appreciation to Dr. Buffington and her team for making it possible. Terry Butler commented that the Board also appreciated Dr. Buffington and her team. Lauren Cicillian offered her congratulations to the Joan Martin Student Council and their presentation. She appreciated the project and leadership they were showing at a young age. She remembers being their age and where she is now as a senior and how much she has grown in that time. She was grateful for all of the opportunities she has been afforded, especially with her upcoming graduation getting nearer. In regards to JROTC, she thought the Junior Achievement Program was a good project but felt the Hobart Food Pantry was the right project to do this year because of the need of the community due to the pandemic. Karen Robbins offered her congratulations to Dr. Krieg and she also offered her congratulations to Daniel Schultz for the continued success of his students. She noted the Joan Martin presentation was “near and dear to her heart” because of the service that students provided. There was some discussion about a possible cereal challenge for the food pantry. President Butler indicated it was time to schedule a Board picture. He told Bill Longer that he “looked very dapper this evening.” He commented on a law in the state legislature that would eliminate gun permits, and he had a lot of concerns about it. He thought that they should still continue the issuance of gun permits and thought people should have training before being able to have a gun. He noted that he took his kids to the shooting range in an effort quell their curiosity about guns. He noted the “great job” the maintenance department did with snow removal. The parking lots were clean, and it was the city streets where there were problems. Dr. Buffington noted that corners were really bad. She said that Monte White assisted a student driver who was stuck in the snow on 7th Street. The student was only wearing shorts, a tank top, and flip flops so Monte pushed him out of the snow. She noted that Mrs. Schoon did not listen to her and went to work, which is why the Administration Office parking area and sidewalk need to be cleared. She did note that a lot of fuel was being used by the school district and the city due to the extraordinary weather conditions. She extended

compliments to the Transportation Department, as well for checking that their routes were passable for student pick-ups.

Since no one was in the audience, there were audience comments.

**ADJOURNMENT:** There being no further business to come before the Board, President Butler adjourned the meeting around 9:09 p.m.

**NEXT MEETING:** The next regular session meeting is March 4, 2021.

BOARD OF SCHOOL TRUSTEES  
SCHOOL CITY OF HOBART

By \_\_\_\_\_  
Terry D. Butler, President

ATTEST:

By \_\_\_\_\_  
Rikki A. Guthrie, Secretary

Submitted for Approval: March 4, 2021

**School City of Hobart  
Board of School Trustees**

**Resolution No. 2021-6**

**A Resolution Approving Amendments to the Bylaws and  
Policies of the Board of School Trustees of the School City of Hobart**

The Board of School Trustees having reviewed recommended changes and additions to its Bylaws and Policies and having received and reviewed the recommendations of Board Counsel and the Superintendent, does hereby find that it is in the best interest of the School City of Hobart to amend the Code of Bylaws and Policies of the School City of Hobart as reflected in Exhibits 1 through 15 attached hereto and incorporated herein by reference.

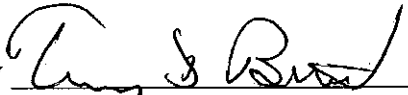
It is Therefore Resolved, that the Bylaws and Policies of the School City of Hobart are hereby amended by adding the language in bold and deleting the stricken language, to amend existing Sections, or by adopting new policies, as set forth in said Exhibits.

Be it Further Resolved, that Board Counsel is hereby directed to cause the foregoing amendments and additions to be incorporated in the codification of Bylaws and Policies previously adopted.

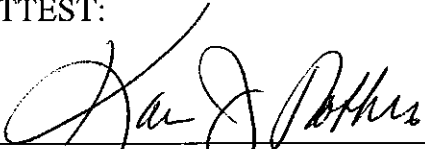
Passed on first reading this 18th day of February, 2021.

Adopted this 18th day of February, 2021.

SCHOOL CITY OF HOBART  
BOARD OF SCHOOL TRUSTEES

By   
Terry D. Butler, President

ATTEST:

  
Rikki A. Guthrie, Secretary Vice President for

# Exhibit 1

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**Policy 1220 - Employment of the Superintendent (Revised)**



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of EMPLOYMENT OF THE SUPERINTENDENT
Code	po1220
Status	Work Session
Adopted	May 20, 2010
Last Revised	May 10, 2018

#### 1220 - EMPLOYMENT OF THE SUPERINTENDENT

The School Board vests the primary responsibility for administration of the School Corporation in the Superintendent of Schools. The appointment of the Superintendent is, therefore, one of the most important functions the Board can perform.

Whenever the position of Superintendent of Schools becomes vacant, the Board will appoint a Superintendent and fix his/her salary and term of employment, which will be for a term of at least one (1) year and not more than three (3) years. However, a contract may be extended for not more than an additional five (5) years beyond the term of the original contract.

#### **[ X ] NOTE: SELECT THIS OPTION IF THE BOARD IS ELECTED**

Beginning with July 1, 2021, and thereafter, the Board will not enter into a contract with a Superintendent on or after the date of the election of one or more members of the governing body until January 1 of the year immediately following the year of the election. This policy provision does not apply if the membership of the governing body does not change as a result of the particular election.

#### **[END OF OPTION]**

If the contract contains a provision that establishes an amount the Board must pay to the Superintendent to buy out the contract, the amount may not be more than an amount equal to the lesser of:

- A. the Superintendent's salary for any one (1) year under the contract; or
- B. \$250,000.

A Superintendent's salary under clause (A) does not include benefits or any other forms of compensation that the Superintendent receives as payment under the contract other than the Superintendent's salary.

The Board will actively seek the best qualified and most capable candidate for the position of Superintendent.

Recruitment procedures will be prepared in advance of the search and will include:

- A. preparation of a written job specification for the position of Superintendent;
- B. preparation of written specifications of qualification in addition to proper State certification;

- C. preparation of informative material describing this Corporation and its educational goals;
- D. where feasible, the opportunity for applicants to visit the schools of this Corporation;
- E. the requirement that each of the final selected candidates for the position be interviewed by Board members in a format that encourages him/her to express his/her educational philosophy;
- F. solicitation of applications from a wide geographical area;
- G. consideration of all applicants fairly without discrimination on the basis of race, gender, age, religion, ethnic background, disability, or other condition unrelated to the position of Superintendent.

No person may be employed as Superintendent of this Corporation unless s/he has signed an employment contract with the Board.

At least seven (7) days before a contract for employment is entered into between the Board and the Superintendent, the Board shall hold a public meeting on the proposed contract to hear objections to and support for and discuss, the proposed contract.

The Board Secretary shall submit notice of the hearing on the proposed contract for publication in a newspaper serving the Corporation in compliance with I.C. 5-3-1 and for posting on the newspaper's Internet website in compliance with I.C. 5-3-1-1.5 at least once no less than ten (10) days before the date of the hearing. The Board Secretary also shall direct that the published notice be posted on the Corporation's Internet website.

The notice shall:

- A. state that on a given day, time, and place, the Board will meet to discuss and hear objections to and support for the proposed contract; and
- B. set forth the details of the proposed contract, including the actual monetary value of the contract, benefits, and any additional forms of compensation for each year of the contract.

The name of the candidate for the position of Superintendent shall not be included in the notices or discussion of the proposed contract.

Such contract will be in the basic form of the regular teacher's contract if the Superintendent holds a license under I.C. 20-28-5 and will include:

- A. the term for which employment is contracted, including beginning and ending dates;
- B. the salary which the Superintendent will be paid and the intervals at which s/he will be paid;
- C. the benefits to which s/he is entitled;
- D. such other matters as may be necessary to a full and complete understanding of the employment contract.

See also Policy 8311 - Public Access to Employee Contracts for further posting requirements following the approval of an employment contract with the Superintendent.

The Superintendent so appointed will devote himself/herself to the duties of his/her office.

Any candidate's intentional misstatement of fact material to his/her qualification for employment or the determination of his/her salary will be considered by this Board to constitute grounds for his/her dismissal.

The person selected for the position of Superintendent will be required to undergo a physical examination reasonably related to the duties s/he will be required to perform, the cost of which will be borne by the Corporation.

The contract may be altered or rescinded for a new one at any time by mutual consent of the governing body and the superintendent. The consent of both parties must be in writing and must be expressed in a manner consistent with I.C. 20-28-8-6, -7, and -8. If the Superintendent holds a license under I.C. 20-28-5, the rights of a Superintendent as a teacher under any other law are not affected by the contract unless those rights conflict with the terms of I.C. 20-28-8-6(b), in which case the provisions of I.C. 20-28-8-6(b) govern.

Revised 8/7/14

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I.C. 5-14-1.5-6.1(b)(5) and (9)

I.C. 20-28-8-6

I.C. 20-28-8-7

I.C. 20-28-8-8

# Exhibit 2

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**Policy 2623 - Student Assessment (Revised)**





Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of STUDENT ASSESSMENT
Code	po2623
Status	Work Session
Adopted	May 20, 2010
Last Revised	April 6, 2017

### 2623 - **STUDENT ASSESSMENT**

The School Board, in compliance with law and rules of the State Board of Education, shall implement State Board-approved statewide achievement to assess student achievement and needs in English/language arts, mathematics, social studies, science, and other designated subjects in order to determine the progress of students and to assist them in attaining School Corporation and State Department goals.

[X ] Student test scores on statewide assessments may be utilized in making placement decisions; provided, however, a student's score on the state assessment may not be the primary factor or measure used to determine whether a student is eligible for a particular course or program.

Additionally, the Board shall administer any end of course exams as may be required by the State Board in grades 9 through 12. ~~The end of course examinations for Algebra I and English 10 comprise the graduation examination.~~

The Board shall comply with the requirements of the State Board of Education in administering the Indiana Reading Evaluation and Determination (IREAD-3) Assessment to students enrolled in grade 3.

The Superintendent shall develop and implement a plan which complies with guidelines established by the Department of Education.

Revised 8/2/12

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Legal	I.C. 20-32-2
	I.C. 20-32-8
	I.C. 20-32-8.5
	511 IAC 5
	511 IAC 6.2-3.1

# Exhibit 3

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**Policy 2700 - Annual Performance Report (Revised)**



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of ANNUAL PERFORMANCE REPORT
Code	po2700
Status	Work Session
Adopted	May 20, 2010
Last Revised	January 10, 2019

#### 2700 - ANNUAL PERFORMANCE REPORT

Each year, not earlier than March 15<sup>th</sup> or later than March 31st the School Board shall publish ~~a performance report for presentation to the public and may make it available on the~~ in a newspaper in compliance with I.C. 5-3-1 a full annual performance report or a summary annual performance report. If a summary report is published, it shall contain the following data points: (1) student enrollment; (2) graduation rate and the graduation rate excluding students that receive a graduation waiver; (3) attendance rate; (4) all state standardized assessment scores, including the number and percentage of students meeting academic standards; (5) the school's performance category or designation of school improvement assigned by the state; (6) the percentage of graduates considered college and career ready; and (7) financial information and various school cost factors required by the office of management and budget. The summary report must direct the public to a location on the Internet where the full annual performance report may be viewed. The annual performance report shall be available on a prominent page of the School Corporation's ~~Internet web-site~~ website. It also shall provide a copy of the report free of charge to any person who requests it.

The report which is prepared by the Indiana Department of Education (IDOE), may contain information which is outlined in I.C. 20-20- 8-8 and I.C. 20-42.5-3-5, including:

- A. student enrollment;
- B. graduation rate as defined in State law and the graduation rate excluding students that receive a graduation waiver under I.C. 20-32-4-4 or I.C. 20- 32-4-4.1;
- C. attendance rate;
- D. the following test scores, including the number and percentage of students meeting academic standards: all State standardized assessment scores; scores for assessments under I.C. 20-32-5-21, if appropriate; for a freeway school, scores on a locally adopted assessment program, if appropriate;
- E. average class size;
- F. the school's performance category or designation of school improvement assigned under I.C. 20-31-8;
- G. the number and percentage of students in the following groups or programs: alternative education (if offered); career and technical education; special education; high ability; remediation; limited English language proficiency, students receiving free or reduced price lunch under the national school lunch program or school flex program (if offered); and students in foster care;
- H.
  1. for advanced placement tests, the percentage of students scoring three (3), four (4), or five (5), and the percentage taking the test;

2. test scores of all students taking the Scholastic Aptitude Test; test scores for students completing the Indiana diploma with a Core 40 with academic honors designation program; and the percentage of students taking the test;
- I. course completion, including the number and percentage of students completing the academic honors curriculum, the Core 40 curriculum, and career and technical programs;
  - J. the percentage of grade eight (8) students enrolled in algebra 1;
  - K. the percentage of graduates considered college and career ready in a manner prescribed by the State Board;
  - L. school safety, including the number of students receiving suspension or expulsion for the possession of alcohol, drugs, or weapons, and the number of incidents of a school employee being a victim of threat, intimidation, battery or harassment which were filed with a law enforcement agency (I.C. 20-33-9);
  - M. financial information and various school cost factors including expenditures per student, average teacher salary, and remediation funding;
  - N. interdistrict and intradistrict student mobility rates if that information is available;
  - O. the number and percentage of teachers who are certificated employees; the number and percentage of teachers who teach the subject area for which the teacher is certified and holds a license; the number and percentage of teachers with national board certification;
  - P. the percentage of grade 3 students reading at grade 3 level;
  - Q. the number of students expelled, including the number participating in other recognized education programs during their expulsion, and the percentage of students expelled disaggregated by race, grade, gender, free or reduced lunch status, eligibility for special education, and students in foster care;
  - R. chronic absenteeism, which includes the number of students who have been absent for ten percent (10%) or more of a school year for any reason; and habitual truancy, which includes the number of students who have been absent more than ten (10) days from school within a school year without being excused or without being absent under a parental request that has been filed with the school;
  - S. the number of students who have dropped out of school, including the reasons for dropping out, and the percentage of students who have dropped out disaggregated by race, grade, gender, free or reduced lunch status, eligibility for special education, and students in foster care;
  - T. the number of out of school suspensions assigned, including the percentage of students suspended disaggregated by race, grade, gender, free or reduced lunch status, eligibility for special education, and students in foster care;
  - U. the number of in school suspensions assigned, including the percentage of students suspended disaggregated by race, grade, gender, free or reduced lunch status, and eligibility for special education, and students in foster care;
  - V. the number of student work permits revoked;
  - W. the number of students receiving an international baccalaureate diploma;
  - X. the percentage of expenditures for student academic achievement, student instructional support, overhead/operational expenses, and non- operational expenses, and the trend line for each of the categories of expenditures during the previous school year;
  - Y. the number of instances in which either seclusion or restraint is used, including any seclusion or restraint implemented by a school resource officer;
  - Z. other indicators of performance as recommended by the education roundtable.

The information concerning each of these benchmarks will relate to the preceding three (3) years of operation and will provide a comparison of graduation rates, attendance rates and test scores from the applicable State-mandated test(s) with the Corporation's performance-based accreditation status.

The Board may provide for a public hearing, within sixty (60) days of publication of the report, at a designated Corporation

facility for the purpose of presenting the report to the public and discussing its contents. This hearing may be done at a regularly-scheduled Board meeting.

The Superintendent shall ensure that a copy of the report is submitted to the State Department of Education and is published prominently on the Corporation's website.

#### **ADDITIONAL REPORT REQUIREMENTS FOR TITLE I PURPOSES**

In any year that the Corporation receives Title I funding, its annual report also must meet the following requirements:

Reports must be concise and presented in an understandable and uniform format that is developed in consultation with parents and accessible to persons with disabilities and, to the extent practicable, in a language that parents can understand.

The report must include: 1) an overview section; and 2) a detail section. Reports must begin with a clearly labeled overview section that is prominently displayed. The overview section of Corporation reports must include information on key metrics of State, Corporation, and school performance and progress and is intended to help parents and other stakeholders quickly access and understand such information and provide context for the complete set of data included in the report.

The overview section of the annual report must include, for the Corporation as a whole and each school, if appropriate, the following information:

- A. student achievement data (i.e., the number and percentage of students at each level of achievement on the State mathematics, reading/language arts, and science assessments), including how achievement in the Corporation compares to the State as a whole and, for each school in the Corporation, how that school compares to the Corporation and the State as a whole;
- B. English language proficiency of English learners (i.e., the number and percentage of English learners achieving English language proficiency as measured by the State's English proficiency assessment);
- C. performance on each measure within the Academic Progress indicator used by the State for elementary schools and secondary schools that are not high schools;
- D. high school graduation rates, including the four (4) year adjusted cohort and the extended-year adjusted cohort;
- E. performance on other indicators of school quality or student success used by the State;
- F. school identifying information, including, at a minimum, the name, address, phone number, email, student membership count, and Title I participation status;
- G. summative determination for each school;
- H. whether the school was identified for comprehensive support and improvement or targeted support and improvement, and the reason(s) for such identification.

The overview section must include disaggregated data for specific student subgroups as required by the United States Department of Education (e.g., each major racial and ethnic group; children with disabilities; English learners; and economically disadvantaged students).

Report cards must include student achievement data overall and by grade, including the percentage of students at each level of achievement as determined by the State for all students and disaggregated by each major racial and ethnic group, gender, disability status, migrant status, English proficiency status, status as economically disadvantaged, status as a homeless student/youth, status as a child in foster care, and status as a student with a parent who is a member of the Armed Forces on active duty (which includes full-time National Guard duty). Data for these subgroups must be included in the detail section of report cards if it is not included in the overview section.

The detail section of the Corporation report card must include the remaining information required in the statute and applicable regulations. The Corporation need not include information in the detail section of the report if it includes such information in the overview section. The annual report detail section must include, if appropriate:

- A. student achievement data (i.e., the number and percentage of students at each level of achievement on the State mathematics, reading/language arts, and science assessments), including how achievement in the Corporation compares to the State as a whole and, for each school in the Corporation, how that school compares to the Corporation and the State as a whole;

- B. percentages of students assessed and not assessed in each subject (i.e. participation rates on required assessments);
- C. the extent alternate assessments aligned with alternate academic achievements standards were used for students with the most significant cognitive disabilities (i.e., the number and percentage of students assessed using alternate academic achievement standards, by grade and subject);
- D. as applicable, number and percentage of recently arrived English learners exempted from one administration of the reading/language arts assessments or whose results are excluded from certain State indicators;
- E. high school graduation rates, including the four (4)-year adjusted cohort, and the extended-year adjusted cohort;
- F. postsecondary enrollment rates for each high school;
- G. information collected and reported in compliance with the Civil Rights Data Collection (CRDC) under 20 U.S.C. 3413(c)(1), including rates of in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, chronic absenteeism (excused and unexcused), incidences of violence (including bullying and harassment) and the number and percentage of students enrolled in preschool programs and accelerated coursework to earn postsecondary credit while still in high school, such as Advanced Placement and International Baccalaureate courses and examinations, and dual or concurrent enrollment programs;
- H. progress toward State-designed long-term goals for academic achievement, graduation rates, and English learners achieving English language proficiency (including measurements of interim progress);
- I. level of performance on each indicator included in State accountability system including, as applicable, results on each individual measure within each indicator not already included in the school overview section;
- J. information on educator qualifications, including the number and percentage of inexperienced teachers, principals and other school leaders, teachers teaching with emergency or provisional credentials, and teachers who are not teaching in the subject or field for which the teacher is certified or licensed;
- K. information on per-pupil expenditures (i.e., actual personnel and actual non-personnel for the Corporation as a whole and each school);
- L. results on State academic assessments in reading and mathematics in grades 4 and 8 of the National Assessment of Educational Progress compared to the national average of such results;
- M. description and results of State accountability system (the Corporation may provide the web address or URL of, or a direct link to, a State plan or other location on the State Department of Education's website to meet this requirement);
- N. additional information best-suited to convey the progress of each school;
- O. other information as required by the State Department of Education.

When presenting data on a report card, the Corporation shall protect the privacy of individuals and the privacy of personally identifiable information contained in students' education records in accordance with the Family Educational Rights and Privacy Act (FERPA).

The Corporation's annual report card information must be made publicly available through such means as posting on the Corporation's website and distribution to local media and public agencies.

The Board will provide the school level overview directly to all parents in each school served by the Corporation annually.

The data from the local report card is to be used by each of the schools and the Corporation as a whole in revising and upgrading school and Corporation improvement plans.

Revised 8/7/14  
Revised 3/3/16  
Revised 7/19/18

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I.C. 5-3-1

I.C. 20-20-8-3, -4, -5, -6, -8

I.C. 20-26-13-6

I.C.20-42.4-3-4, -5

513 IAC 1-2-7(e)

20 U.S.C. 6311-6314, Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act

34 C.F.R. Part 200

# Exhibit 4

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**Policy 3220 - Staff Evaluation (Revised)**





Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of STAFF EVALUATION
Code	po3220
Status	Work Session
Adopted	May 20, 2010
Last Revised	March 3, 2016

### 3220 - STAFF EVALUATION

The School Board shall adopt a plan for annual performance evaluations of each certificated employee, as defined in I.C. 20-28-11.5- 0.5, employed by the School Corporation. This includes each certificated employee as defined in I.C. 20-29-2-4 and, in each school year ~~beginning after June 30, 2014~~, each teacher as defined in I.C. 20-18-2-22. This plan may be amended as needed, subject to any required discussion with the teachers or the teachers' representative if there is one.

The plan approved by the Board shall include the following components:

- A. performance evaluations for all certificated employees, as defined in I.C. 20-28-11.5-0.5, conducted at least annually;
- B. objective measures of student achievement and growth to significantly inform the evaluation. ~~The objective measures must include:~~
  1. ~~student assessment results from statewide assessments for certificated employees whose responsibilities include instruction in subjects measured in statewide assessments;~~
  2. ~~methods for assessing student growth for certificated employees who do not teach in areas measured by statewide assessments; and~~
  3. ~~student assessment results from locally developed assessments and other test measures for certificated employees whose responsibilities may or may not include instruction in subjects and areas measured by statewide assessments.~~
- C. rigorous measures of effectiveness, including observations and other performance indicators;
- D. an annual designation of each certificated employee, as defined in I.C. 20- 28-11.5-0.5, in one (1) of the following rating categories:
  1. highly effective
  2. effective
  3. improvement necessary
  4. ineffective
- E. an explanation of the evaluator's recommendations for improvement, and the time in which improvement is expected;
- F. ~~a provision that a teacher who negatively affects student achievement and growth cannot receive a rating of highly effective or effective;~~

- G. ~~for annual performance evaluations for school years beginning after June 30, 2015,~~ provide for a pre-evaluation planning session conducted by the Superintendent or equivalent authority for the Corporation with the principals in the Corporation;
- H. discussion of the evaluation between the evaluated employee and the evaluator.

In developing a performance evaluation model, the Corporation may consider the following:

- A. test scores of students (both formative and summative)
- B. classroom presentation observations;
- C. observation of student-teacher interactions;
- D. knowledge of subject matter;
- E. dedication and effectiveness of the teacher through time and effort on task;
- F. contributions of teachers through group teacher interactivity in fulfilling the school improvement plan;
- G. cooperation of the teacher with supervisors and peers;
- H. extracurricular contributions of the teacher;
- I. outside performance evaluations;
- J. compliance with Corporation rules and procedures; and/or
- K. other items considered important by the Corporation in developing each student to the student's maximum intellectual potential and performance.

The Corporation's annual performance evaluation plan shall be in writing and shall be explained to the Board in a public meeting before the evaluations are conducted. Prior to the plan being explained to the Board, the Superintendent shall discuss the plan with the teachers or the teachers' representative, if there is one. This discussion is not subject to the Open Door Law. The plan is not subject to bargaining; however, discussion of the plan shall be held.

The Principal of each school in the Corporation shall report in the aggregate the results of staff performance evaluations for the school for the previous year to the Superintendent and the Board at a public Board meeting held before August 15 of each year on the schedule determined by the Board. Before presentation to the Board, the Superintendent shall discuss the report of completed evaluations with the teachers or the teachers' representative, if there is one. This discussion is not subject to the Open Door Law. The report of completed evaluations is not subject to bargaining; however, discussion of the report shall be held.

The Corporation annually shall provide the Indiana Department of Education with the disaggregated results of staff performance evaluations for all schools in the Corporation before November 15 of each year.

Revised 3/15/12

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Legal                    I.C. 20-18-2-22  
                               I.C. 20-28-11.5-0.5  
                               I.C. 20-28-11.5-4  
                               I.C. 20-28-11.5-9  
                               I.C. 20-29-2-4

# Exhibit 5

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**Policy 5111 - Determination of Legal Settlement and Eligibility for Enrollment of Students without Legal Settlement in the Corporation (Revised)**

**Policy 5130 - Withdrawal from School (Technical Correction)**



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of DETERMINATION OF LEGAL SETTLEMENT AND ELIGIBILITY FOR ENROLLMENT OF STUDENTS WITHOUT LEGAL SETTLEMENT IN THE CORPORATION
Code	po5111
Status	Work Session
Adopted	May 20, 2010
Last Revised	February 6, 2020

**5111 - DETERMINATION OF LEGAL SETTLEMENT AND ELIGIBILITY FOR ENROLLMENT OF STUDENTS WITHOUT LEGAL SETTLEMENT IN THE CORPORATION**

The School Board establishes the following policy for determining student eligibility to attend the schools of this School Corporation.

- A. The Board will educate, tuition free, students who have legal settlement in the Corporation, and students enrolled according to the requirements of I.C. 20-26-11.
- B. Where the legal settlement of a student cannot reasonably be determined by reference to the residence of the student's parent or legal guardian and the student is being supported by and living with a person whose residence is within the Corporation, the student may be enrolled without payment of tuition. Parents may not place students in the home of another person primarily for the purpose of attending school in this Corporation without establishing legal guardianship as required by Indiana law, which may not be done for the sole purpose of school attendance.
- C. A child who is placed in foster care by a court of competent jurisdiction shall be admitted tuition free, without regard to residency, to a school within the Corporation, as selected by the State Department of Human Services or the child placing agency responsible for placement of that child.
- D. Foreign students participating in a foreign-exchange program approved by the Indiana State Board of Education and living with a resident host family will be admitted tuition free.
- E. The Corporation will provide a free education to those students who are considered by Federal law to be illegal aliens, if the student's parent or legal guardian has legal settlement within the Corporation, or considered to be homeless by criteria established by the State (see Policy 5111.01 and AG 5111.01 – Homeless Students).
- F. If a student's legal settlement is changed after the student has begun attending school in the Corporation in any school year, the effective date of withdrawal from the Corporation may, at the election of the parent, the student (if the student is at least eighteen years of age), or a juvenile court conducting a proceeding under IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, or IC 31-37-20-6 (or IC 31-6-4-18.5 before its repeal), be extended to the end of the semester in which the change of legal settlement occurred. At the discretion of the Superintendent the effective date of withdrawal from the Corporation may be extended to the end of that school year.
- G. Students who have completed the eleventh grade in this Corporation and have changed legal settlement to another school corporation may complete the twelfth grade in this Corporation.

Transportation from and to the site of the new legal settlement will not be provided by the School Corporation for a student whose effective date of withdrawal is extended beyond the date of the change of legal settlement, unless the

student has an Individualized Education Program (IEP) in which transportation is required to be provided as a related service.

- H. A married student living with a spouse, or a married or unmarried emancipated minor is eligible to attend school without payment of tuition if the student resides in the Corporation.

#### **I. Children of Divorced Parents**

Children of divorced parents may attend school in this Corporation without the payment of tuition if one (1) parent resides in this Corporation and an election is made. Utilizing the "Custodial Statement and Agreement: Divorce, Separation or Abandonment" form provided in the Indiana State Board of Education.

The parent with physical custody of the student or the student, if the student is at least eighteen (18) years of age, must notify the Superintendent of the school corporation in which the parents/student seek to have the student enrolled of their election to enroll the student in the Corporation. The election shall be made on a yearly basis and applies throughout the school year unless the student's parent no longer resides within the attendance area of the Corporation.

- J. Students whose parents do not have legal settlement within the Corporation but who present evidence that they will move into the Corporation within a short period of time may enroll in the schools of this Corporation as tuition students for the time not in residence.
- K. Students who do not have legal settlement may be enrolled in the special education program of this Corporation pursuant to the provisions of a Cooperative agreement.
- L. Nonresident students may be accepted into the Summer School Program provided by this Corporation.

#### **M. Transfer Students**

The Corporation shall enroll only those students who have legal settlement in the School Corporation. The Corporation does not enroll students who do not have legal settlement as determined pursuant to I.C. 20-26-11 unless there was a policy in 2012-2013 school year that allowed students who do not have legal settlement to enroll in the Corporation. Those students, as well as students in the same household of a student who was enrolled in 2012-2013 (whether or not that student attended a public school or accredited nonpublic school) may enroll for the current year. The governing body of the Corporation may authorize the transfer of a student from an accredited nonpublic school or charter school to a school within the school corporation.

##### **Transfer Student Whose Parent Is Employed by the Corporation:**

The Corporation shall accept a transferring student who does not have legal settlement in the Corporation and whose parent is a current employee of the Corporation ~~and has a salary of at least \$8,000~~ who resides in Indiana if: 1) the parent/employee earns an annual salary of at least: a) \$8,000; or b) \$3,000 earned due to being included an employee in the extracurricular portion of the Corporation's collective bargaining agreement; and 2) the Corporation has the capacity to accept the student. If the number of students who request to transfer to the Corporation under this section causes the Corporation to exceed its maximum student capacity, the Board shall determine which students will be admitted as transfer students by a random drawing in a public meeting.

##### **Nonpublic School Transfer Student**

The Corporation shall accept a transferring student who resides in Indiana and who does not have legal settlement in the Corporation if:

- A. the student attended an accredited nonpublic elementary school located in the attendance area of the Corporation for at least two (2) school years immediately preceding the school year in which the student transfers to a high school in the Corporation under this section;
- B. the student is transferring because the accredited nonpublic school from which the student is transferring does not offer grades 9 through 12;
- C. the majority of the students in the same grade as the transferring student at the accredited nonpublic school have legal settlement in the Corporation and will attend a school under the authority of the Corporation; and
- D. the Corporation has the capacity to accept students.

If the number of students who request to transfer to the Corporation under this section causes the Corporation to exceed its maximum student capacity, the Board shall determine which students will be admitted as transfer students by a random drawing in a public meeting.

Revised 1/20/11  
Revised 8/15/13  
Revised 3/20/14  
Revised 2/5/15  
Revised 3/3/16

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#### Legal

I.C. 20-18-2-11 (legal settlement defined)  
I.C. 20-33-2-12 (transfer to another accredited or non-accredited school)  
I.C. 20-33-8-17 (expulsion for lack of legal settlement)  
I.C. 20-26-11-1 (residence defined)  
I.C. 20-26-11-2  
I.C. 20-26-11-2.5 (divorced parent election)  
I.C. 20-26-11-6(e) (option to not charge transfer tuition)  
I.C. 20-26-11-6.5 (children of school employees)  
I.C. 20-26-11-6.7 (nonpublic school students)  
I.C. 20-26-11-32 (lottery selection of student transfer requests, HEA 1381 – 2013)  
I.C. 20-26-11-33 (non-transfer student attending alternative education program)  
Plyer v. Doe, 457 U.S. 202 (1982) (State Statute denying free public education to illegal immigrants violated the Equal Protection Clause of the Fourteenth Amendment)  
Divorced Parents Agreement: <http://www.doe.in.gov/sites/default/files/legal/formiii.pdf>  
Third Party Agreement: <http://www.doe.in.gov/sites/default/files/legal/custodialstatementinstructions.pdf>



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of WITHDRAWAL FROM SCHOOL
Code	po5130
Status	Work Session
Adopted	May 20, 2010
Last Revised	March 3, 2016

#### 5130 - **WITHDRAWAL FROM SCHOOL**

The School Board affirms that, while Indiana Law requires attendance of each student until eighteen (18) years of age, it is in the best interests of both the students and the community that they complete the educational program that will equip them with skills and increase their chances for a successful and fulfilling life beyond the schools.

The Board directs that whenever a student, sixteen (16) to eighteen (18) years of age, wishes to withdraw from school, an exit interview will be conducted. The following individuals shall attend the exit interview:

- A. the student;
- B. the parent(s);
- C. the principal or principal's designee.

The exit interview will include a determination of whether or not the student is withdrawing for reason of financial hardship, requiring the student to be employed to support the student's family or a dependent, illness, or an order by a court that has jurisdiction over the student.

During the exit interview, the individual(s) designated by the Board to attend shall provide the student and the student's parent(s) a copy of statistics concerning the likely consequences of life without a high school diploma.

The student may not withdraw from school unless the student, the student's parent or guardian, and the principal agree to the withdrawal and the parent or guardian and the principal provide written consent for the student to withdraw from school. If the principal (this duty may not be delegated to a designee) does not consent to the student's withdrawal, the student's parent may appeal the denial to the Board.

At least five (5) days before holding an exit interview, the Corporation shall give notice by certified mail or personal delivery to the student, the student's parent(s), or the student's guardian that the student's failure to attend an exit interview or return to school if the student does not meet the requirements to withdraw from school will result in the revocation or denial of the student's driver's license or learner's permit and employment certificate.

The Superintendent shall develop a withdrawal form (Form 5130 F4) which is to be signed by the student, his/her parent, and the principal in accordance with this policy.

Revised 8/2/12

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Legal

I.C. 9-24-2-1

I.C. 20-26-13-17

I.C. 20-33-2-9

I.C. 20-33-2-28.5



# Exhibit 6

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**Policy 5610 - Suspension and Expulsion of Students (Revised)**



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of SUSPENSION AND EXPULSION OF STUDENTS
Code	po5610
Status	Work Session
Adopted	May 20, 2010
Last Revised	February 6, 2020

#### 5610 - **SUSPENSION AND EXPULSION OF STUDENTS**

The School Board recognizes that removal from the educational programs of the Corporation, whether by suspension or expulsion, is the most severe sanction that can be imposed on a student in this Corporation and one that cannot be imposed without due process since removal deprives a child of the right to an education.

No student is to be suspended and/or expelled from an activity, program, or a school unless his/her behavior represents misconduct or substantial disobedience while the student is on school grounds immediately before or during school hours, or immediately after school hours, or at any other time when the school is being used by a school group; off school grounds at a school activity, function, or event; or traveling to or from school or a school activity, function, or event.

In addition to the grounds specified above, a student may be suspended or expelled for engaging in unlawful activity on or off school grounds if the unlawful activity may reasonably be considered to be an interference with school purposes or an educational function, or the student's removal is necessary to restore order or protect persons on school property, including any unlawful activity during weekends, holidays, other school breaks, and the summer period when a student may not be attending classes or other school functions.

Furthermore, a student may be suspended or expelled for bullying, regardless of the physical location in which the bullying occurred, whenever:

- A. the individual committing the bullying behavior and any of the intended targets of the bullying behavior are students attending a school within a school corporation; and
- B. disciplinary action is reasonably necessary to avoid substantial interference with school discipline or prevent an unreasonable threat to the rights of other to a safe and peaceful learning environment.

The following specific acts set forth below are examples of student misconduct and/or substantial disobedience. These acts are prohibited and offenders may be subject to suspension and/or expulsion for such misconduct or substantial disobedience:

- A. Using violence, force, noise, coercion, threat, intimidation, fear, passive resistance, or other comparable conduct constituting an interference with school purposes, or urging other students to engage in such conduct prohibited by this subdivision:
  1. Occupying any school building, school grounds, or part thereof with intent to deprive others of its use.
  2. Blocking the entrance or exits of any school building or corridor or room therein with intent to deprive others of lawful access to or from, or use of the building, corridor, or room.

3. Setting, or attempting to set fire to, any school building or property.
4. Prevention of or attempting to prevent by physical act the convening or continued functioning of any school or educational function, or of any lawful meeting or assembly on school property.
5. Continuously and intentionally making noise or acting in any manner so as to interfere seriously with the ability of any teacher or any of the other school personnel to conduct the educational function under his/her supervision.

This subdivision shall not, however, be construed to make any particular student conduct a ground for expulsion where such conduct is constitutionally protected as an exercise of free speech or assembly or other right under the Constitution of Indiana or the United States.

- B. Trespassing, vandalizing school property, causing or attempting to cause substantial damage to school property, stealing or attempting to steal school property of substantial value, or repeatedly damaging or stealing school property of small value.
- C. Intentionally causing or attempting to cause substantial damage to valuable private property, stealing or attempting to steal valuable private property, or repeatedly damaging or stealing private property.
- D. Intentionally causing or attempting to cause physical injury or intentionally behaving in such a way as could reasonably cause physical injury to any person. It is the Board's position that students must learn to deal with conflict in a mature manner. This includes learning alternative responses to physical confrontation.
  1. Self-defense or reasonable action undertaken on the reasonable belief that it was necessary to protect some other person does not, therefore, constitute a violation of this provision.
  2. For the purpose of this policy and code, "reasonable action" shall mean the course of action which:
    - a. Utilizes physical force only when non-physical alternatives (e.g. retreat, or notification of supervisory personnel) are not available.
    - b. Does not constitute the initiation of a physical confrontation.
    - c. Does not utilize excessive force.
  3. For the purpose of this policy and code, "reasonable belief" shall be:
    - a. Belief that no non-physical alternatives were available;
    - b. In response to unanticipated use of physical force.
- E. Threatening or intimidating any student for the purpose of, or with the intent of, obtaining money or anything of value from the student.
- F. Knowingly possessing, handling, or transmitting a knife or any other object that can reasonably be considered a weapon. A student who must use a knife as part of an organized activity held by an organization that has been approved by the principal of the school is exempt from application of this subsection so long as the knife is used as part of or in accordance with the approved organized activity.
- G. Knowingly possessing, using, transmitting, or being under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, or intoxicant of any kind. Use of a drug authorized by a medical prescription from a physician is not a violation of this subdivision.
- H. Engaging in the unlawful selling of a controlled substance or engaging in a criminal law violation that constitutes a danger to other students or constitutes an interference with school purposes or an educational function.
- I. Failing in a substantial number of instances to comply with directions of teachers or other school personnel during any period of time when the student is properly under their supervision, where the failure constitutes an interference with school purposes or an educational function.
- J. Engaging in any activity forbidden by the laws of Indiana that constitutes an interference with school purposes or an educational function.

- K. Violating or repeatedly violating any rules that are reasonably necessary in carrying out school purposes or an educational function.
- L. Knowingly possessing or using on school grounds during school hours an electronic paging device or a handheld portable telephone in a situation not related to a school purpose or an educational function.
- M. Engaging in conduct or in speech that threatens, intimidates or coerces a teacher, administrator, supervisory employee, or adult volunteer who is in the performance of his/her duties.
- N. Engaging in speech or conduct, including clothing, jewelry, or hair style, which is profane, indecent, lewd, or offensive to school purposes.
- O. Engaging in sexual misconduct in any form whether by word or action, inclusive of sexual harassment.
- P. Wearing any type of apparel or grooming style that interferes with the educational process, creates an actual or potential health or safety hazard, or causes, or threatens to cause damage to school property.

A Student Code of Conduct, approved by the Board, shall specify the procedures to be followed by school officials when administering this policy. In addition to the procedural safeguards and definitions set out in this policy and the student/parent handbook, the procedures set forth in Policy 5605 shall apply to students identified as disabled under IDEA.

For purposes of this policy and the Superintendent's administrative guidelines, the following definitions shall apply:

- A. "Suspension" shall be the temporary removal of a student by the school principal from the Corporation's program for a period not to exceed ten (10) school days. A student may be suspended for a longer period of time in accordance with the provisions of I.C. 20-33-8-23 pending expulsion.

If a student is suspended, the student is required to complete all assignments and school work assigned during the period of the student's suspension. The principal or the principal's designee shall ensure that the student receives notice of any assignments or school work due and teacher contact information in the event that the student has questions regarding the assignments or schoolwork. The student will receive credit, in the same manner as a student who is not suspended would receive, for any assignments or school work assigned during the period of the student's suspension that the student completes. The student shall be allowed to make up missed tests or quizzes when the student returns to school.

- B. "Expulsion" means a disciplinary or other action where by a student is:
  1. separated from school attendance for a period exceeding ten (10) school days;
  2. separated from school attendance for the balance of the current semester or current year unless a student is permitted to complete required examinations in order to receive credit for courses taken in the current semester or current year; or
  3. separated from school attendance for at least one (1) calendar year pursuant to I.C. 20-33-8-16 for possession of firearms, deadly weapons or destructive devices, which may include an assignment to attend an alternative school, an alternative educational program, or a homebound educational program.

The term does not include situations when a student is disciplined under I.C. 20-33-8-25, removed from school pursuant to I.C. 20-34-3-9, or removed from school for failure to comply with the immunization requirements of I.C. 20-34-4-5.

Any student who brings a firearm, as defined in I.C. 35-31.5-2-86, or a destructive device, as defined in I.C. 35-47.5-2-4 to school or onto school property or at a school-related activity or is in possession of a firearm shall be expelled for at least one (1) calendar year unless the Superintendent reduces the punishment for reasons justified by the particular circumstances of the incident.

If the student brings a deadly weapon as defined in I.C. 35-41-1-8 onto Corporation property or is found to possess a deadly weapon on Corporation property or at a school-related activity, s/he may be expelled for a period of not more than one (1) calendar year unless the Superintendent reduces the punishment for reason justified by the particular circumstances of the incident. The Superintendent shall notify the law enforcement agency designated by the Prosecuting Attorney immediately when a student possesses a firearm, destructive device, or deadly weapon on school property or at a school-related activity.

The Superintendent shall ensure that a copy of this policy is sent to the State Department of Education as well as a

description of the circumstances surrounding any expulsions for the above-stated firearms or weapons offense together with the name of the school, the number of students so expelled, and the types of firearms or weapons that were brought on Corporation property.

The Corporation shall annually prepare a list of:

1. alternative education programs in the same county in which the Corporation is located or a county immediately adjacent to the county in which the Corporation is located; and
2. virtual charter schools;

in which a student may enroll if the student is expelled. The list must contain contact information for the entities described above and must provide the student and the student's parent notice that the student may be required to comply with I.C. 20-33-2 or any statute relating to compulsory school attendance in accordance with I.C. 20-33-8-31. A copy of the list shall be provided to the student or the student's parent at the expulsion meeting. If the student or student's parent fails to attend an expulsion meeting, a copy of the list shall be mailed to the student's residence.

If a student is expelled from school or from any educational function, the student's absence from school because of the expulsion is a violation of I.C. 20-33-2 or any other statute relating to compulsory school attendance if the student may enroll in:

1. an alternative education program in the county where or in a county immediately adjacent to the county where the Corporation from which s/he was expelled is located; or
2. a virtual charter school

and the student does not enroll in an alternative education program or a virtual charter school during the student's expulsion. In the event an alternative education program or virtual charter school is not available for a student to attend under this subsection, the student's expulsion is not a violation of I.C. 20-33-2 or any other statute relating to compulsory school attendance.

The Board of School Trustees has voted not to hear any expulsion appeals. Instead, appeals of expulsion must be filed with the Lake Superior Court.

The Superintendent shall develop administrative guidelines which provide appropriate procedures for implementing this policy and comply with applicable statutes.

The Superintendent shall report all expulsions and second suspensions to the Bureau of Motor Vehicles in accordance with law and the Bureau's guidelines.

#### **Retention of Public Records, Student Records, and Investigatory Records and Materials**

All individuals charged with imposing discipline under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation of student misconduct and disciplinary action taken, including but not limited to reports, admissions, witness statements, documentary evidence, audio, video and/or digital recordings, handwritten and contemporaneous notes, emails related to the allegations, investigation and disciplinary action, printouts, letters, determinations, and summaries. The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation of student misconduct or disciplinary action taken shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, Policy 8330 and the Corporation's records retention schedule.

Revised 6/18/15

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Legal I.C. 20-33-8-13.5 et seq., 35-31.5-2-86, 35-47-1-5, 35-47.5-2-4  
20 U.S.C. 7151

# Exhibit 7

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**Policy 5895 - Student Employment (Revised)**



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of STUDENT EMPLOYMENT
Code	po5895
Status	Work Session
Adopted	May 20, 2010

### 5895 - STUDENT EMPLOYMENT

The School Board believes that attendance at school should occupy a student's full attention and should take precedence over nonschool-related employment.

If a student must work while attending school, s/he should receive counseling and assistance in seeking appropriate job opportunities and in correlating work schedules with school studies and activities. Any minor person at least fourteen (14) years of age and less than eighteen (18) years of age must secure an employment certificate issued by the proper issuing officer prior to being employed in all jobs except those excluded by State statute. The student shall receive the employment certificate from the accredited school that the student attends or from the school corporation in which the student resides.

The school principal, in writing, shall assign a staff member who meets the requirements of Indiana law to serve as the employment certificates issuing officer for the accredited school. The issuing officer may issue an employment certificate only to a minor whose employment is necessary and only after the receipt of the following two (2) documents: proof of age and proof of prospective employment. Proof of age documents are those listed in the State statute. Proof of prospective employment is a written statement signed by the person for whom the minor is to work, setting forth the nature of the work to be performed by the minor and the maximum hours per week that the minor will work.

The issuing officer ~~School corporations~~ may deny ~~a work permit~~ an employment certificate to a student whose academic performance does not meet the ~~Corporation's~~ school corporation's standards or whose attendance is not in good standing. The issuing officer ~~They~~ also ~~has~~ have the right to revoke ~~an employment certificate~~ a work permit previously issued to a student if the school determines that there has been a significant decrease in the student's grade point average or attendance after s/he begins to work. When it appears that a job is detrimental to a student's academic status, it is the responsibility of the school to advise the parents and the employer to ensure that the student's education remains the primary focus.

If the student fails to attend an exit interview or fails to return to school if his/her request to withdraw in accordance with Policy 5130 is denied, then the ~~employment certificate~~ work permit and driver's license ~~may~~ shall be revoked or the application ~~may~~ shall be denied.

Should the ~~employment certificate~~ work permit be revoked at the end of the school year, the student may be allowed to work during the summer while school is not in session. However, such student will lose the ~~employment certificate~~ work permit at the start of the new school year until s/he meets the attendance and grade standards established by the school for receiving the ~~employment certificate~~ work permit.

The Superintendent shall prepare guidelines ~~which will ensure~~ that:

- A. ~~comply with Indiana laws on~~ student employment ~~complies with Indiana laws~~;
- B. ~~provide for~~ all students employed in out-of-school jobs ~~to be~~ are ~~closely~~ monitored by staff regarding school attendance and achievement in order to determine the effects on school performance of the students assuming out-of-school work commitments.

Legal

I.C. 9-24-2-1

I.C. 20-33-2-28.5

I.C. 22-2-18-14

I.C. 22-2-18-16

I.C. 22-2-18-18

I.C. 22-2-18-19



# Exhibit 8

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**Policy 8390 - Animals on School Corporation Property (Revised)**



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of ANIMALS ON SCHOOL CORPORATION PROPERTY
Code	po8390
Status	Work Session
Adopted	August 15, 2013
Last Revised	June 18, 2015

## 8390 - ANIMALS ON SCHOOL CORPORATION PROPERTY

### Introduction

The School Board recognizes that there are many occasions when animals are present on School Corporation property and many reasons for those animals' presence. Animals are commonly utilized by teachers during classroom presentations and are often housed in classrooms and other locations on campus. Additionally, employees, students, parents/guardians, vendors, and other members of the public may be accompanied at school by a service animal in accordance with Federal and Indiana law and this policy.

This policy shall apply to all animals on Corporation property, including service animals. ~~(-) emotional support animals~~ **(X)** therapy dogs.

### Definitions

- A. **Animal** shall be held to include every living creature other than a plant or a human.
- B. **Service animal** as used in this policy has the meaning of the term in I.C.16-32-3-1.5 and means an animal trained and providing services constituting a reasonable accommodation to a person with a disability. The term includes but is not limited to:
1. a hearing animal;
  2. a guide animal;
  3. an assistance animal;
  4. a seizure alert animal;
  5. a mobility animal;
  6. a psychiatric service animal; or
  7. an autism service animal.

For purposes of the administration of this policy, note that while some Federal regulations limit the scope of the term "service animal" to a dog or miniature horse, Indiana law establishes the broader definition set out above.

- C. **Police Canine.** A dog which is trained for law enforcement purposes, and is present with its handler on school property in

furtherance of any law enforcement or school purpose, as authorized by the Superintendent or Building Administrator.

- D. ~~( ) "Emotional Support Animal": Emotional support animals provide comfort to individuals but are not trained to perform a specific job or task and therefore would not meet the definition of a "service animal." This definition does not include psychiatric service animals who are properly trained and certified as a "service animal." See 28 C.F.R. 36.104~~
- E. (X) "Therapy Dog": Therapy dogs are dogs who go with their owners to volunteer in settings such as schools, hospitals, and nursing homes for the purpose of providing affection and comfort to aid in a particular purpose, such as healing or learning. A therapy dog in a school setting serves the function of assisting students in the learning process while providing comfort and affection to specific students or to a group of students. Therapy dogs are not service dogs and do not have the same special access as service dogs. (source: American Kennel Club/AKC)

### **Vaccination, Licensing and/or Veterinary Requirements**

Animals admitted or housed on Corporation property or brought on Corporation property for any school purpose, such as to conduct random searches for illegal substances or to support classroom activities, or brought onto Corporation property on a regular basis for any purpose, including service animals ~~( ) emotional support animals~~ (X) therapy dogs, must meet every veterinary health and inoculation requirement set forth in State law and local regulation or ordinance, including but not limited to a current rabies vaccination.

### **Non-Service Animals in Schools and Elsewhere on Corporation Property**

Animals permitted in schools and elsewhere on Corporation property shall be limited to animals whose presence is necessary or appropriate to support specific curriculum-related projects and activities, those that provide assistance to a student or staff member due to a disability (e.g., seizure disorder), those that provide a reasonable accommodation to a student in accordance with an Individualized Education Program or a Section 504 Plan, or those that serve as service animals as required by Federal and State law.

A non-service animal that is poisonous, a bite risk, or is otherwise dangerous to persons shall be housed and maintained in a manner so as to eliminate a risk of injury to a person. The risk of injury shall take into account that a student may not follow safety directives established for the handling of the non-service animal. This evaluation may result in a decision that despite the educational value of the non-service animal's presence, the educational value does not outweigh the risk of injury to a person.

Taking into consideration that some animals can cause or exacerbate allergic reactions, spread bacterial infections, or cause damage and create a hazard if they escape from confinement, the principal may permit animals other than service animals to be present in a Corporation school to support curriculum-related projects and activities or which support the educational mission only under the following conditions:

- A. The staff member seeking approval to have a non-service animal in his/her classroom shall:
1. provide a current satisfactory health certificate or report of examination from a veterinarian for the animal;
  2. take precautions deemed necessary to protect the health and safety of students and other staff;
  3. ensure that the animal is treated humanely, keeping it in a healthy condition and in appropriate housing (e.g., a cage or tank) that is properly cleaned and maintained; and
  4. keep the surrounding areas in a clean and sanitary condition at all times.
- B. Other staff members and parents/guardians of students in areas potentially affected by animals have been notified in writing and adjustments have been made to accommodate verified health-related or other concerns.

Except where required by law, the presence of a non-service animal shall be disallowed if documented health concerns of a student or staff member cannot be accommodated.

### **{OPTION FOR ALLOWING EMOTIONAL SUPPORT ANIMALS ON CORPORATION GROUNDS}**

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#### **~~( ) Emotional Support Animals for Students~~**

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An emotional support animal is not granted the same access to school buildings and classrooms as service animals. The Corporation is not required to grant students' requests that they be permitted to bring an emotional support animal to classes or on school grounds for any purpose. ~~( )~~ Based on established criteria, the Superintendent may grant a student use of an

emotional support animal on a case-by-case basis if necessary and not disruptive to the environment or other students.

An emotional support animal is the personal property of the student and/or parents/guardians. The Board does not assume responsibility for training, daily care, healthcare, or supervision of a student's emotional support animal unless the provision of an emotional support animal is required for a student to receive a free appropriate public education ("FAPE"), in which case the Corporation's obligation must be stated in the student's IEP or Section 504 Plan. By admitting an emotional support animal to Corporation property, the Board does not assume responsibility for personal injury or property damage arising out of or relating to the presence or use of emotional support animals on Corporation property or at Corporation-sponsored events.

An emotional support animal that meets the definition set forth in this policy shall be under the control of the student with a disability or a separate handler if the student is unable to control the animal. An emotional support animal shall have a harness, leash, or other tether, unless either the student with a disability is unable because of a disability to use a harness, leash, or other tether, in which case the emotional support animal must be otherwise under the student's control (e.g., voice control, signals, or other effective means), or under the control of a handler other than the student.

If the student with a disability is unable to control the emotional support animal and another person serves as the animal's handler, that individual shall be treated as a volunteer and, as such, will be subject to Board Policy 8120.

The principal will be responsible for reviewing and determining whether the required documentation has been provided for the student's emotional support animal. Services to a student shall not be suspended or withheld pending receipt of the requisite documentation for the emotional support animal until the student or a parent/guardian has been given a reasonable period of time to submit any required documentation.

#### **Removal or Exclusion of Emotional Support Animals**

If an emotional support animal demonstrates that it is not under the control of the student or its handler, the principal is responsible for documenting such behavior and for determining if and when the emotional support animal is to be removed and/or excluded from school property.

Similarly, if an emotional support animal has demonstrated that it is not housebroken, the principal is responsible for documenting such behavior and for determining whether the emotional support animal is to be removed and/or excluded from school property.

The principal or administrator responsible for the Corporation facility shall notify the Superintendent and \_\_\_\_\_ by e-mail if an emotional support animal has been removed and/or excluded and shall document the reasons for the removal or exclusion.

#### **Emotional Support Animal's Access to Transportation**

A student with a disability may be permitted to access Corporation transportation with his/her emotional support animal at the discretion of the principal. There also may be a need for the emotional support animal's handler, if the handler is someone other than the student, to access Corporation transportation, again at the discretion of the principal.

When an emotional support animal is going to ride on a school bus owned or leased by the Corporation, the student and his/her parents/guardians, or eligible student, and the handler, if s/he is someone other than the student, shall (-) meet with the (-) principal (-) Transportation Supervisor

(-) \_\_\_\_\_ to discuss critical commands needed for daily interaction and emergency/evacuation, and to determine whether the emotional support animal should be secured on the bus/vehicle with a leash, tether or harness.

At the discretion of the (-) principal, (-) Transportation Supervisor, (-) \_\_\_\_\_, an orientation will take place for students and staff who will be riding the bus/vehicle with the emotional support animal regarding the emotional support animal's functions and how students should interact with the emotional support animal.

The emotional support animal shall board the bus by the steps with the student, not a lift, unless the student uses the lift to enter and exit the bus. The emotional support animal must participate in bus evacuation drills with the student.

While the bus/vehicle is in motion, the emotional support animal shall remain positioned on the floor, at the student's feet.

Situations that would cause cessation of transportation privileges for the emotional support animal include:

A. the student, or handler, is not able to control the emotional support animal's behavior, which poses a threat to the health or safety of others; or

B. the emotional support animal urinates or defecates on the bus.

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Prior to the first day of transportation, an eligible student (i.e., one who has reached the age of eighteen (18) and has not had a guardian appointed) or his/her parents/guardians shall be informed in writing of the types of emotional support animal behaviors that could result in cessation of transportation privileges for the emotional support animal.

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Although transportation may be suspended for the emotional support animal, it remains the Corporation's responsibility to transport the student. Furthermore, unless the behavior that resulted in the emotional support animal's removal from the bus/vehicle is also documented during the school day, the service animal still may accompany the student in school, unless the Superintendent revokes permission for a student to bring an emotional support animal on Corporation property.

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**[END OF OPTION]**

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**[OPTION FOR ALLOWING CERTIFIED THERAPY DOGS ON CORPORATION GROUNDS]**

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**(X ) Therapy Dogs**

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Therapy dogs are the personal property of the handler and are specially trained to help all students in the assigned classroom, program, or school. Authorization for a therapy dog to be on Corporation grounds may be granted by the (X ) Superintendent (-) building principal (-) \_\_\_\_\_. **[END OF OPTIONS]** provided the following conditions are met each year:

- A. Documentation of certification as a therapy dog from the AKC, Intermountain Therapy Animals (R.E.A.D.), Alliance of Therapy Dogs, Bright and Beautiful Therapy Dogs, Love on a Leash, Pet Partners, Therapy Dogs International, or another certification program recognized by the AKC.
- B. Documentation of an educational purpose for the therapy dog and a regular appraisal period for continuation.
- C. Documentation that the therapy dog is not younger than one (1) year-old and is properly licensed according to local requirements.
- D. Documentation from a licensed veterinarian that the therapy dog is current on its vaccinations and immunizations, is free of fleas and ticks, is in good health, is housebroken, and does not pose a danger to the well-being of students or staff.
- E. Documentation of an insurance policy that provides liability insurance for the therapy dog while on Corporation grounds.
- F. Documentation that the handler has completed a background check consistent with Board policy and is prepared to be solely responsible for the therapy dog, its care, cleaning, feeding, and cleanup while on Corporation grounds.
- G. Agreement that the therapy dog and handler will abide by school rules and any specific rules for the therapy dog's presence on Corporation grounds.

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Authorization for a therapy dog to be on Corporation grounds will be suspended if the therapy dog is the source of an allergic reaction, causes discomfort or distress of a student or staff member, shows aggression or disruptive behavior, relieves itself inappropriately, or otherwise interferes with the learning environment. Reinstatement of authorization for the therapy dog to be on Corporation grounds requires approval by the (X ) Superintendent (-) \_\_\_\_\_. Authorization for a therapy dog to be on Corporation grounds may be withdrawn at any time by the Superintendent.

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**[END OF OPTION]**

### **Humane Treatment of Animals**

Animals kept on school premises shall be treated humanely and shall not be subjected to cruel treatment or housed in unsanitary or unnecessarily restrictive conditions. For purposes of this provision, "humanely" includes the provision of adequate food and fresh water, and the term "animal" means a sentient creature capable of assessing and responding to its environment.

### **Service Animals for Students**

A service animal is permitted to accompany a student with a disability to whom the animal is assigned anywhere on the school campus where students are permitted to be.

A service animal is the personal property of the student and/or parents/guardians. The Board does not assume responsibility for training, daily care, healthcare, or supervision of a student's service animal unless the provision of a service animal is required for a student to receive a free appropriate public education ("FAPE"), in which case the Corporation's obligation must be stated in the student's IEP or Section 504 Plan. By admitting a service animal to Corporation property, the Board does not assume

responsibility for personal injury or property damage arising out of or relating to the presence or use of service animals on Corporation property or at Corporation-sponsored events.

A service animal that meets the definition set forth in this policy shall be under the control of the student with a disability or a separate handler if the student is unable to control the animal. A service animal shall have a harness, leash, or other tether, unless either the student with a disability is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the student's control (e.g., voice control, signals, or other effective means), or under the control of a handler other than the student.

If the student with a disability is unable to control the service animal and another person serves as the animal's handler, that individual shall be treated as a volunteer and, as such, will be subject to Board Policy 8120.

The principal will be responsible for reviewing and determining whether the required documentation has been provided for the student's service animal. Services to a student shall not be suspended or withheld pending receipt of the requisite documentation for the service animal until the student or a parent/guardian has been given a reasonable period of time to submit any required documentation.

### **Removing and/or Excluding a Student's Service Animal**

If a service animal demonstrates that it is not under the control of the student or its handler, the principal is responsible for documenting such behavior and for determining if and when the service animal is to be removed and/or excluded from school property.

Similarly, if a service animal has demonstrated that it is not housebroken, the principal is responsible for documenting such behavior and for determining whether the service animal is to be removed and/or excluded from school property.

The principal or administrator responsible for the Corporation facility shall notify the Superintendent and the Director of School Safety by e-mail if a service animal has been removed and/or excluded, and shall document the reasons for the removal or exclusion.

The principal's decision to remove and/or exclude a service animal from school property may be appealed in accordance with Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity and the complaint procedure set forth in [Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity](#). ~~AG-2260B--Complaint Procedures for Nondiscrimination.~~

The procedures that are set forth in [Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity](#). ~~AG-2260B--Complaint Procedures for Nondiscrimination~~ shall not preclude a student and his/her parent/guardian from pursuing a complaint with the United States Department of Education's Office for Civil Rights, the United States Department of Justice, the Indiana Department of Education, or the Indiana Civil Rights Commission.

### **Eligibility of a Student's Service Animal for Transportation**

A student with a disability shall be permitted to access Corporation transportation with his/her service animal. There ~~also~~ may be a need for the service animal's handler, if the handler is someone other than the student, to ~~also~~ access Corporation transportation. ~~There may also be a need for the service animal's handler, if the handler is someone other than the student, to access Corporation transportation.~~

When a service animal is going to ride on a school bus owned or leased by the ~~School~~ Corporation, the student and his/her parents/guardians, or eligible student, and the handler, if s/he is someone other than the student, shall meet with the principal and Transportation Coordinator to discuss critical commands needed for daily interaction and emergency/evacuation, and to determine whether the service animal should be secured on the bus/vehicle with a leash, tether or harness

At the discretion of the principal and Transportation Coordinator, an orientation will take place for students and staff who will be riding the bus/vehicle with the service animal regarding the service animal's functions and how students should interact with the service animal.

The service animal shall board the bus by the steps with the student, not a lift, unless the student uses the lift to enter and exit the bus. The service animal must participate in bus evacuation drills with the student.

While the bus/vehicle is in motion, the service animal shall remain positioned on the floor, at the student's feet.

Situations that would cause cessation of transportation privileges for the service animal include:

- A. the student, or handler, is not able to control the service animal's behavior, in which poses a threat to the health or safety

of others; or

B. the service animal urinates or defecates on the bus.

Prior to the first day of transportation, an eligible student (i.e., one who has reached the age of eighteen (18) and has not had a guardian appointed) or his/her parents/guardians shall be informed in writing of the types of service animal behaviors that could result in cessation of transportation privileges for the service animal.

If it is necessary to suspend transportation privileges for the service animal for any of the above reasons, the decision may be appealed to the Transportation Supervisor.

Although transportation may be suspended for the service animal, it remains the Corporation's responsibility to transport the student. Furthermore, unless the behavior that resulted in the service animal's removal from the bus/vehicle is also documented during the school day, the service animal ~~may~~ still may accompany the student in school.

### **Service Animals for Employees**

In accordance with Policy 1623, Policy 3123, and Policy 4123 - Section 504/ADA Prohibition Against Disability Discrimination in Employment, the Corporation provides qualified individuals with disabilities with reasonable accommodation(s). An employee with a disability may request authorization to use a service animal while on duty as such an accommodation. The request will be handled in accordance with the interactive process mandated by the Americans with Disabilities Act.

### **Food Service Employees**

Food service employees who use a service animal shall be required to comply with the standards applicable to food preparation and food service set out in FDA Food Code Section 2-403.11. Failure to comply with these requirements represents a direct threat to health of others. This provision prohibits handling of animals by employees engaged in food preparation or service, but allows employees to use service animals if certain specific conditions are met. Section 6-501.115 states that service animals may be permitted in food consumption areas not used for food preparation. Food service employees may handle their service animals if, after handling a service animal, the employee washes his/her hands for at least twenty (20) seconds using soap, water, and vigorous friction on surfaces of the hands, followed by rinsing and drying as per Section 2-301.12.

Employees of vendors shall be accommodated as employees of the Corporation as long as this accommodation does not cause undue hardship for the Corporation or a direct threat to the health or safety of employees or others.

### **Service Animals for Parents/guardians, Vendors, Visitors, and Others**

Individuals with disabilities who are accompanied by a service animal are permitted access to all areas of the Corporation's facilities where members of the public, as participants in services, programs, or activities, as vendors, or as invitees, are permitted to go. Individuals who will access any area of the Corporation's facilities with their service animal will accompany them during their visit.

An individual with a disability who attends a school event will be permitted to be accompanied by his/her service animal in accordance with Policy 9160 - Public Attendance at School Events.

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Legal

I.C. 16-32-3: Rights of Blind and Other Physically Disabled Persons

28 CFR Part 35: Justice Department Regulations for Nondiscrimination on the Basis of Disability in State and Local Government Services

29 CFR 1630: EEOC Regulations Implementing the ADA as amended

34 CFR Part 104: Regulations Implementing Section 504 of the Rehabilitation Act,

29 U.S.C. 794

34 CFR Part 300: Individuals with Disabilities Education Act (IDEA) Regulations

# Exhibit 9

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**Policy 8400 - School Safety (Revised)**

**Policy 8405 - Environmental Health and Safety Issues (Revised)**

**Policy 8462 - Child Abuse and Neglect (Revised)**





Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of SCHOOL SAFETY
Code	po8400
Status	Work Session
Adopted	May 20, 2010
Last Revised	February 6, 2020

#### 8400 - **SCHOOL SAFETY**

The Board of School Trustees is committed to maintaining a safe environment in all of the School Corporation's schools. To that end, in accordance with State and Federal law, the Corporation shall establish a *Safe School Committee* for the entire Corporation, the composition of which shall be in accordance with the Superintendent's guidelines.

The *Safe School Committee* may include at least one (1) member who is a member of the school or Corporation career and technical education school.

The *Safe School Committee* shall be responsible for developing a plan that addresses the following issues:

- A. Unsafe conditions, crime prevention, school violence, bullying, criminal organization activity, child abuse and child sexual abuse, and other issues that prevent the maintenance of safe schools.

Accordingly, the school safety plan developed by the school safety specialist with the assistance of the school resource officer shall be a part of the plan developed by the Safe School Committee.

- B. Professional development needs for faculty and staff to implement methods that decrease problems identified above.
- C. Methods to encourage involvement by the community and students, development of relationships between students and school faculty and staff, and use of problem solving teams.
- D. Provide a copy of the floor plans for each building that clearly indicates each exit, the interior rooms and hallways, and the location of any hazardous materials located in the building to the local law enforcement agency and the fire departments that have jurisdiction over the school.

**NOTE:** The Corporation shall not disclose any record or part of any record if the disclosure of which would have a reasonable likelihood of threatening public safety by compromising the Corporation's security.

In developing the plan, the *Safe School Committee* shall seek input from representatives of the following:

- A. the State Department of Education;
- B. the Corporation's school safety specialist;
- C. School Resource Officer(s);
- D. local law enforcement agency;

- E. the local Fire Marshal(s) or his/her designee(s);
- F. local emergency medical services;
- G. a member of the Board;
- H. building administrators;
- I. the local emergency management service agency;
- J. Director of School Safety.

The Superintendent shall recommend the approval and adoption of the Corporation's plan.

#### **Safe School Committee's Duty To Implement the Safe and Drug-Free Schools and Communities Act**

The *Safe School Committee* is responsible for implementing the Safe and Drug-Free Schools and Communities Act. To ensure that the Corporation remains compliant with Federal law, the *Safe School Committee* shall:

- A. develop a drug-free school plan that:
  1. requires each school to collect and report drug-related activities in the school, including suspensions, expulsions, exclusions, police actions, or any other type of drug-related behavior; and
  2. addresses ways to eliminate illegal drugs and drug-related behavior in schools;
- B. oversee the implementation of the school plan;
- C. oversee the implementation of the curriculum under I.C. 20-30-5-11 concerning the effects that alcoholic beverages, tobacco, prescription drugs, and controlled substances have on the human body and society at large.

[X ] To apply annually for matching grant funds from the Indiana secured school fund, the Corporation shall certify to the Department of Homeland Security that it has:

- A. conducted a threat assessment for each school building it uses; and
- B. a memorandum of understanding (MOU) in place with a community mental health center established under State law or a provider certified or licensed by the State to provide mental or behavioral health services to students.

#### **School Safety Specialist**

The Corporation shall designate an individual to serve as the school safety specialist for the Corporation. The school safety specialist shall be chosen by the Superintendent with the approval of the Board. The school safety specialist shall perform the following duties:

- A. Serve on the county school safety commission, if a county school safety commission is established under I.C. 5-2-10.1-10.
- B. Participate each year in a number of days of school safety training that the council determines.
- C. With the assistance of the county school safety commission, if a county school safety commission is established under I. 5-2-10.1-10, develop a safety plan for each school in the Corporation.
- D. Coordinate the safety plans of each school in the Corporation as required under rules adopted by the Indiana state board of education; and
- E. Act as a resource for other individuals in the Corporation on issues related to school discipline, safety, and security.

A school safety plan developed by the school safety specialist must:

A. include the requirements set forth in I.C. 20-26-18.2-2(b), namely:

1. Protect against outside threats to the physical safety of students,
2. Prevent unauthorized access to school property,
3. Secure schools against violence and natural disasters, and
4. on or before July 1, 2020, identify the location of bleeding control kits;

B. be provided to a member of the secured school safety board, as established by I.C. 10-21-1-3, if a member requests the plan; and

C. be filed with the county safe school commission under I.C. 5-2-10.1-10 if the county has established a county safe school commission.

#### Bleeding Control Kits

A "bleeding control kit" means a first aid response kit that contains at least the following:

- A. One (1) tourniquet endorsed by the Committee on Tactical Combat Casualty Care.
- B. A compression bandage.
- C. A bleeding control bandage.
- D. Protective gloves and a permanent marker.
- E. Scissors.
- F. Instructional documents developed by the Stop the Bleed national awareness campaign of the United States Department of Homeland Security or the American College of Surgeons Committee on Trauma, or both.
- G. Other medical materials and equipment similar to those described in subdivisions (A) through (C), and any additional items that:
  1. are approved by local law enforcement or first responders;
  2. can adequately treat a traumatic injury; and
  3. can be stored in a readily available kit.

Beginning in the 2020-2021 school year and each school year thereafter and subject to either:

A. an appropriation by the general assembly; or

B. the Corporation receiving sufficient bleeding control kits for each school in the Corporation from:

1. donations from individuals or entities; or
2. gifts necessary to purchase the bleeding control kits;

The Corporation shall develop and implement a Stop the Bleed program that meets the requirements set forth in I.C. 20-34-3-24(c), namely:

- A. requires bleeding control kits be assigned to designated rooms in easily accessible locations to be determined by local first responders or the school safety specialist;
- B. includes bleeding control kits in the emergency plans of the school corporation or charter school, including the presentation and use of the bleeding control kits in all drills and emergencies;
- C. provides that all Corporation schools have a minimum of five (5) individuals in each school building who obtain appropriate training in the use of the bleeding control kit, including:
  - 1. the proper application of pressure to stop bleeding;
  - 2. the application of dressings or bandages;
  - 3. additional pressure techniques to control bleeding; and
  - 4. the correct application of tourniquets;
- D. requires bleeding control kits in school inventories to be inspected annually to ensure that the materials, supplies, and equipment contained in the bleeding control kits are not expired, and that any expired materials, supplies, and equipment are replaced as necessary; and
- E. requires a bleeding control kit to be restocked after each use and any materials, supplies, and equipment to be replaced as necessary to ensure that the bleeding control kit contains all necessary materials, supplies, and equipment.

The Corporation's Stop the Bleed program must include each school in the Corporation.

The Corporation may request direction to resources that are available to provide bleeding control kits to the Corporation from the Department of Homeland Security; the State Department of Education.

#### **School Resource Officers**

"School resource officer" means an individual who:

- A. has completed the training described below;
- B. is assigned to one (1) or more school corporations or charter schools to:
  - 1. assist the school safety specialist with the development and implementation of the school safety plan; and
  - 2. carry out any additional responsibilities assigned to the school resource officer under the employment engagement, contract, or memorandum of understanding and to:
    - a. protect against outside threats to the physical safety of students;
    - b. prevent unauthorized access to school property; and
    - c. secure schools against violence and natural disasters; and
- C. is:
  - 1. employed by a law enforcement agency;
  - 2. appointed as a police reserve officer (as described in I.C. 36-8-3-20) or as a special deputy (as described in I.C. 36-8-10-10.6) if the police reserve officer or special deputy:
    - a. is subject to the direction of the sheriff or appointing law enforcement agency;
    - b. is required to obey the rules and orders of the sheriff's department or appointing law enforcement agency;

- c. is required to complete all training required of regular full-time law enforcement officers employed by the sheriff's department or appointing law enforcement agency; and
- d. may be removed by the sheriff or appointing law enforcement agency at any time, with or without cause; or

3. a school corporation police officer appointed under I.C. 20-26-16-3

Before being appointed as a school resource officer, an individual must have:

- A. successfully completed the minimum training requirements established for law enforcement officers under I.C. 5-2-1-9; and
- B. received at least forty (40) hours of school resource officer training through:
  - 1. the Indiana law enforcement training board established by I.C. 5-2-1-3;
  - 2. the National Association of School Resource Officers; or
  - 3. another school resource officer training program approved by the Indiana law enforcement training board.

The training described above must include instruction regarding skills, tactics, and strategies necessary to address the special nature of:

- A. school campuses; and
- B. school building security needs and characteristics.

A school resource officer may be employed:

- A. by one (1) or more school corporations or charter schools through a contract between a local law enforcement agency and the school corporation or school corporations or the charter school or charter schools;
- B. by one (1) or more school corporations or charter schools;
- C. by a local law enforcement agency that assigns the school resource officer to one (1) or more school corporations or charter schools through a memorandum of understanding between the local law enforcement agency and the school corporation or school corporations or the charter school or charter schools; or
- D. through a contract between an Indiana business that employs persons who meet the qualifications of a school resource officer and the school corporation or school corporations or the charter school or charter schools.

The contract or memorandum of understanding described above must state the nature and scope of a school resource officer's duties and responsibilities. A school resource officer's duties and responsibilities include the duty to assist the Corporation's school safety specialist with the development and implementation of a school safety plan that does the following:

- A. Protects against outside threats to the physical safety of students.
- B. Prevents unauthorized access to school property.
- C. Secures schools against violence and natural disasters.
- D. On or before July 1, 2020, identifies the location of bleeding control kits (as defined in I.C. 20-34-3-24(a)).

A school resource officer shall consult with local law enforcement officials and first responders when assisting the Corporation's school safety specialist in the development of the school safety plan.

A school resource officer shall participate in the development of programs designed to identify, assess, and provide assistance to troubled youth.

A school resource officer shall not be reassigned to other duties by the Corporation.

A school resource officer may:

- A. make an arrest;
- B. conduct a search or a seizure of a person or property using the reasonable suspicion standard;
- C. carry a firearm on or off school property; and
- D. exercise other police powers with respect to the enforcement of Indiana laws.

A school resource officer has jurisdiction in every county where the Corporation operates a school or where the Corporation's students reside. This does not restrict the jurisdiction that a school resource officer may possess due to the officer's employment by a law enforcement agency.

The Corporation shall report all instances of:

- A. seclusion (as defined in I.C. 20-20-40-9);
- B. chemical restraint (as defined in I.C. 20-20-40-2);
- C. mechanical restraint (as defined in I.C. 20-20-40-4); and
- D. physical restraint (as defined in I.C. 20-20-40-5);

involving a school resource officer in accordance with the restraint and seclusion plan adopted by the Corporation under I.C. 20-20-40-14.

### **Security Police Training**

In the case of a special police officer who is assigned as a security police officer for the Corporation, the Board shall require that the police officer receives training and education, approved by the State Board of Education, that will enable the police officer to appropriately deal with individuals with Autism and Asperger's Syndrome.

### **Mental or Behavioral Health Services**

The Corporation shall enter into a memorandum of understanding (MOU) with a community mental health center established under State law or a provider certified or licensed by the State to provide mental or behavioral health services to students.

The Corporation may not refer a student to a mental health care provider or community mental health center for services unless the Corporation has received the written consent of the student's parent or guardian. If a referral is made, the Corporation may note the referral in the student's cumulative record but shall not include any possible diagnosis or information concerning the student's mental health other than any medication that the student takes for his/her mental health. A student's record that contains medical information shall be kept confidential. A school counselor or other Corporation employee may not diagnose a student as having a mental health condition unless his/her scope of practice includes diagnosing a mental health condition.

Prior to providing any referrals under a MOU, the Corporation must:

- A. Develop a process for a teacher or Corporation employee to notify a school official to contact a student's parent if the student demonstrates a repeated pattern of aberrant or abnormal behavior. The parental notification process must include a conference with the school, student, and the student's parent;
- B. Require that the aforementioned conference address the student's potential need for and benefit from:
  - 1. mental or behavioral health services; or

2. mental or behavioral health services provided by the community mental health center or appropriate provider that is contracted and paid for by the Corporation;
- C. Establish a procedure for a parent who chooses to seek services for the student to follow that includes granting written parental consent for the student to receive mental or behavioral health services by a community mental health center or appropriate provider; and
- D. Protect the confidentiality of any medical records that result from a student's participation in any treatment described in subpart B above and adopt a policy that prohibits the Corporation from:
  1. sharing any reports or notes resulting from the provision of mental or behavioral health services described in subpart B.1 above with other school officials; and
  2. maintaining any reports, notes, diagnosis, or appointments that result from a student's participation in any treatment described in B.1 or B.2 above in the student's permanent educational file. (See Policy 8330 - Student Records.)

### **Persistently Dangerous Schools**

The Board recognizes that State and Federal law requires that the Corporation report annually incidents which meet the statutory definition of violent criminal offenses that occur in a school, on school grounds, on a school conveyance, or at a school-sponsored activity. It is further understood that the State Department of Education will then use this data to determine whether or not a school is considered "persistently dangerous" as defined by State policy.

Pursuant to the Board's stated intent to provide a safe school environment, the Corporation's school administrators are expected to respond appropriately to any and all violations of the Student Code of Conduct, especially those of a serious, violent nature. In any year where the number of reportable incidents of violent criminal offenses in any school exceeds the threshold number established in State policy, the Superintendent shall refer this to the Safe School Committee for the Corporation so that a plan of corrective action can be developed and implemented in an effort to reduce the number of these incidents in the subsequent year.

When developed, the Superintendent shall make a report to the Board about this plan of corrective action and recommend approval and adoption of it.

In the unexpected event that the number of reportable incidents in three (3) consecutive school years exceeds the statutory threshold and the school is identified as persistently dangerous, students attending the school shall have the choice option as provided in Policy 5113.02 and AG 5113.02.

In addition, the Superintendent shall meet with the Safe School Committee for the Corporation to discuss the school's designation as a persistently dangerous school, and develop a plan of corrective action that can be implemented in an effort to reduce the number of these incidents in the subsequent year.

### **Victims of Violent Crime**

The Board further recognizes that, despite the diligent efforts of school administrators and staff to provide a safe school environment, an individual student may be a victim of a violent crime in a school, on school grounds, on a school conveyance, or at a school-sponsored activity. In accordance with Federal and State law the parents of the eligible student shall have the choice options provided by Policy 5113.02 and AG 5113.02.

Revised 3/3/16

Revised 4/6/17

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I.C. 5-2-10.1-9

I.C. 5-2-10.1-10

I.C. 5-2-10.1-12

I.C. 20-26-5-31

I.C. 20-26-16

I.C. 20-26-18.2-2

I.C. 20-30-5-11

I.C. 20-34-3-20

I.C. 20-34-3-21

I.C. 20-34-3-24

Title IX, Section 9532 of the No Child Left Behind Act of 2001

20 U.S.C. 7101 et seq., The Safe and Drug-Free Schools and Communities Act (Title IV, Part A of the Elementary and Secondary Education Act)





Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of ENVIRONMENTAL HEALTH AND SAFETY ISSUES - INDOOR AIR QUALITY, ANIMALS IN THE CLASSROOM, AND IDLING VEHICLES ON SCHOOL PROPERTY
Code	po8405
Status	Work Session
Adopted	May 20, 2010
Last Revised	February 6, 2020

#### **8405 - ENVIRONMENTAL HEALTH AND SAFETY ISSUES - INDOOR AIR QUALITY, ANIMALS IN THE CLASSROOM, AND IDLING VEHICLES ON SCHOOL PROPERTY**

The School Board recognizes its responsibility relative to student, employee, and visitor health and safety, and the need for the development of a comprehensive program designed to provide a healthy, safe, and secure environment on Corporation property and at Corporation-sponsored activities. To achieve this, it is the intent of the Board that the Corporation will avail itself of the most current, proven technologies in the fields of health, safety, and environmental sciences.

#### **STUDENT, EMPLOYEE, AND VISITOR HEALTH AND SAFETY**

The Corporation shall develop and implement an environmental health and safety program that is positive, proactive, integrates responsibilities within the Corporation, and promotes and incorporates the following:

- A. Procedures describing a hazard identification and abatement program that requires the periodic inspection of Corporation facilities, the implementation of immediate and programmed corrective actions when deemed necessary by such inspections, and the development of a corporation-wide hazard reporting procedure that enables employee/stakeholder participation. This program should also provide procedures for identifying and responding to hazards that are created by outside entities, inspecting activities of contractors, and inspecting new facilities to determine whether or not appropriate requirements for environmental health and safety have been met.
- B. Procedures that promote environmental health and safety awareness among employees, students, and stakeholders. These procedures shall include, but not be limited to, the establishment of school and Corporation safe school committees, and the establishment of a program of regular communication with students, employees, and stakeholders about pertinent safety and health issues through available mediums in the Corporation.
- C. Procedures directed toward the safety and health of students during transportation to and from school, at school, and during participation in school-related activities. These procedures shall include, but not be limited to, promoting bus safety for students, assessing the safety of school traffic patterns, operating school clinics, administering medication and medical treatment, promoting laboratory and shop safety, promoting safety in sports and other outdoor activities, inspecting playground equipment and promoting safety on playgrounds, and assessing environmental exposure.
- D. Procedures related to Corporation employee health and safety issues that include, but are not limited to, provision of work areas free from recognized hazards and OSHA-related programs that are required by Federal and State law, such as, employee safety and health training and training in hazard recognition, and defining employer and employee responsibilities and expectations related to health and safety.
- E. Procedures describing an accident reporting and investigation system that provides for identification of root causes, determination of remedial and programmed corrective actions, and provides communication about accidents to employees

and stakeholders.

F. Procedures that detail plans for foreseeable emergencies and fire prevention.

### **ANIMALS IN CLASSROOMS**

Owners of pets and service animals brought on school property are liable for any harm or injury caused by the animal to other students, staff, visitors, and/or property.

### **INDOOR AIR QUALITY (IAQ)**

The Superintendent shall appoint a person to serve as the Indoor Air Quality (IAQ) Coordinator for the school corporation. The IAQ Coordinator shall serve as the lead contact person for matters related to indoor air quality in the facilities operated by the School Corporation. The IAQ Coordinator contact information shall be available to all students, parents, employees, and visitors by publishing the information on the school corporation's website and in school handbooks. The school corporation shall also notify the Indiana State Department of Health (ISDH) of the IAQ Coordinator's name and contact information.

Each school facility is to meet criteria established by the ISDH. During inspections by the ISDH, the inspector will investigate any condition that is or could be contributing to poor air quality including, but not limited to the following: carbon dioxide levels, humidity, evidence of mold or water damage, and excess dust.

The Board recognizes that excessive moisture levels within the schools can lead to conditions that are optimum for the development of biological contaminants, such as mold and fungi on building surfaces. The Board further recognizes that the presence of these contaminants can be harmful on contact with respiratory tissue.

Contributing factors to excessive moisture levels include the following:

- A. roof leaks;
- B. structural defects in the building;
- C. improperly controlled humidity levels;
- D. faulty HVAC systems

As preventative measures, the Corporation shall do the following:

- A. address prevention of water intrusion as a priority IAQ issue and implement strategies toward its elimination.

When a water leak or intrusion is discovered, corrective action shall be initiated within forty-eight (48) hours.

- B. maintain environmental conditions in occupied areas that are in compliance with applicable regulations and strive to conform to consensus industry standards;
- C. implement a preventative maintenance program for HVAC systems which shall include, but not limited to, periodic filter replacement, inspection, cleaning and disinfecting processes, and procedures to eliminate the contribution to indoor air quality problems caused by this equipment;
- D. implement a system for ensuring materials used and purchased for use in the construction, furnishing and maintenance, including cleaning of facilities, do not contribute to health hazards to employees and students by degrading the quality of indoor air;

In addition, activities that create indoor air quality health hazards shall not be permitted.

- E. When mold or mold contaminated material is discovered, corrective action shall be initiated within forty-eight (48) hours.

In addition, the Superintendent shall develop administrative guidelines for the proper monitoring of the factors that contribute to excessive moisture and for the development of mitigation plans when, and if, problems with IAQ are identified.

### **SCHOOL BUS AND OTHER VEHICLE IDLING**

In accordance with the Indiana State Department of Health regulations, the Board endeavors to limit vehicle emissions that may be introduced into school facilities harming the indoor air quality.

The Corporation shall determine areas where idling is prohibited and post signs.

Drivers of all public and private vehicles are to turn off the engine if the vehicle is to be stopped for more than five (5) minutes in locations where the vehicle exhaust may be drawn into the building or while on school grounds. See Policy 8615 and AG 8615.

The staff will be informed of this policy at the start of each school year. Parents and students will be informed of this policy at the start of each school year at annual orientations or through student/parent handbooks.

## **POLLUTION CONTROL AND PREVENTION**

In an effort to comply with environmental policy and applicable regulations, the Corporation shall develop and implement procedures designed to prevent air and water pollution, minimize or eliminate waste streams where possible, and identify possible sources of air and water pollution.

### **DRINKING WATER TESTING**

The Superintendent is responsible for implementing the appropriate testing of drinking water in all school buildings in the Corporation prior to January 1, 2023. The Superintendent must test the water to determine whether the drinking water equals or exceeds the action level for lead established in the Code of Federal Regulations of fifteen (15) parts per billion or fifteen one-thousandths (.015) milligram of lead per liter of water. The Superintendent may satisfy the requirement for testing the drinking water in a school building if the drinking water in the school building:

- A. was tested during the lead sampling program for school buildings conducted by the Indiana finance authority in 2017 and 2018;
- B. is tested in the lead sampling program for school buildings and child care facilities conducted by the Indiana finance authority in 2019 and 2020; or
- C. otherwise has been tested for compliance with the federal standards set forth above since calendar year 2016.

**[NOTE: After calendar year 2022, the drinking water in every school building located in Lake County shall be tested at least one (1) time in each period of two (2) calendar years to determine whether the drinking water equals or exceeds the action level for lead.]**

Any system exceeding the action level for lead shall implement all applicable source water treatment requirements established by the State of Indiana and pursuant to the Code of Federal Regulations necessary to reduce the lead level to below the action level for lead set forth above. After the implementation of applicable corrosion control and source water treatment requirements have been met, any system exceeding the lead action level shall complete a lead service line replacement. The Superintendent must provide a notice of lead tap water monitoring results to all students, staff, community members who are serving at the school sites that have been tested. If a system exceeds the lead action level, the Superintendent shall implement the public education requirements. The results of the treatment provisions shall be reported to the State of Indiana. The Corporation shall maintain records of the program in accordance with the Code of Federal Regulations.

The Superintendent shall seek any State and Federal grant money available for lead sampling or testing, including any money available under the lead sampling program for school buildings and child care facilities conducted by the Indiana finance authority.

### **SEE ALSO THE FOLLOWING RELATED POLICIES:**

Policy 8420 Emergency Evacuation of Schools  
 Policy 8431 Chemical Management and Preparedness for Toxic Hazard or Asbestos Hazard  
 Policy 8432 Pest Control and Use of Pesticides  
 Policy 8442 Reporting Accidents  
 Policy 8450 Control of Casual-Contact Communicable Diseases  
 Policy 8453 Control of Noncasual-Contact Communicable Diseases  
 Policy 8453.01 Control of Blood-Borne Pathogens  
 Policy 8615 Idling School Buses and Other Idling Vehicles on School Property

Revised 8/2/12

Revised 4/6/17

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Indiana Department of Health Model Policies

I.C. 16-19-3-5, 16-41-37.5

410 IAC 33-4-1 through 8



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of CHILD ABUSE AND NEGLECT
Code	po8462
Status	Work Session
Adopted	May 20, 2010
Last Revised	February 6, 2020

#### 8462 - CHILD ABUSE AND NEGLECT

As an agency of the State, the School Board is concerned with the physical and mental well-being of the children of this School Corporation and will cooperate in the identification and reporting of cases of suspected child abuse or neglect in accordance with law.

Each staff member employed by this Corporation shall be responsible for reporting immediately every case, whether ascertained or suspected, of abuse, abandonment, cruelty, or neglect resulting in physical or mental injury to a student by other than accidental means. If a staff member has reason to believe a child is a victim of abuse or neglect, s/he shall immediately make a report to the Department of Child Services ("DCS") by calling the Indiana Child Abuse and Neglect Hotline at 1-800-800-5556 and the Hobart Police Department. After making the report, the staff member shall notify the appropriate building administrator of the circumstances that led to the report that the staff member made to DCS or the police. The building administrator shall document the report and, if unable to confirm the date and time it was made and/or the identity of the person to whom the report was made, shall contact DCS and the police to ensure that they have received the report and an investigation has begun. The building administrator shall secure prompt medical attention for any such injuries reported.

Information concerning alleged abuse or neglect of a student is confidential information and is not to be shared with anyone other than the administration, DCS, the local prosecutor, and the Hobart Police Department. If the parent or a member of the household is not the subject of the investigation, the Corporation may notify the parents that a report was made.

Failing to report suspected child abuse or neglect is a Class B misdemeanor, which is punishable by up to 180 days in jail and a \$1,000 fine.

Building administrators should be mindful of the possibility of physical or mental abuse inflicted by a staff member. A staff member who violates this policy also may be subject to disciplinary action. Information concerning alleged abuse of a student by a teacher is confidential information and is not to be shared with anyone other than the parent(s), administration, DCS, and the Hobart Police Department. Any such instances, real or alleged, should be dealt with in accordance with the administrative guidelines established by the Superintendent after making a report of suspected abuse or neglect as described above.

The Board requires that each Corporation employee who is likely to have direct, ongoing contact with children within the scope of his/her employment attend or participate in training on child abuse and neglect, including:

- A. training on the duty to report suspected child abuse or neglect under I.C. 31-33-5; and
- B. training on recognizing possible signs of child abuse or neglect at least once every two (2) years. This training may include an electronic or technology based medium, including self-review modules available on an online system.

The training required by this policy shall count toward the Board's requirements for professional development and be provided during the Corporation employee's contracted day or at a time chosen by the employee.

Also, the Board requires each Corporation employee who is likely to have direct, ongoing contact with children within the scope of the employee's employment to attend or participate in at least one (1) hour of training at least every two (2) years on the identification and reporting of human trafficking. The format of this training may include:

- A. an in-person presentation;
- B. an electronic or technology based medium, including self-review modules available on an online system;
- C. an individual program of study of designated materials.

This training shall count toward the requirements for professional development required by the Board.

~~Annually, Not later than December 15, 2018 and annually thereafter,~~ the Corporation shall provide age appropriate and research and evidence based instruction on child abuse and child sexual abuse to students in Kindergarten through Grade 12. This instruction may be delivered by a school safety specialist, school counselor, school social worker, school psychologist, or any person with training and expertise in the area of child abuse and child sexual abuse.

A staff member who violates this policy in any way may be subject to disciplinary action, up to and including termination.

Revised 5/10/18

Revised 1/10/19

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- Legal I.C. 20-26-5-35.5
- I.C 20-28-3-4.5
- I.C 20-30-5-5.7
- I.C. 31-33-1-1
- I.C. 31-33-5-1
- I.C. 31-33-5-2(b)
- I.C. 31-33-5-3
- I.C. 31-33-5-5(b)
- I.C. 31-33-22-1(a)

# Exhibit 10

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**Policy 8600 - Transportation (Revised)**

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Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of TRANSPORTATION
Code	po8600
Status	Work Session
Adopted	May 20, 2010
Last Revised	February 6, 2020

#### 8600 - **TRANSPORTATION**

It is the policy of the School Board to provide transportation for students when the distance between their home and school makes the service advisable. This policy and any administrative guideline implementing it shall be implemented in compliance with Federal and State law, regulations of the Indiana State Board of Education and the State School Bus Committee.

~~Each September, On or before September 1, 2019, and each September 1 thereafter,~~ the School Corporation must review the Corporation's school bus routes and school bus safety policies to improve the safety of students and adults.

School buses shall be purchased, housed, and maintained by the Board for the transportation of students between their home areas and the schools of the Corporation to which they are assigned. All use of tobacco, including smoking is prohibited on a school bus. A school bus is a motor vehicle that is designed and constructed for the accommodation of at least ten (10) passengers and used for the transportation of school children to and from school, school athletic games or contests, and other school functions. The term "school bus" does not include a privately owned automobile with a capacity of not more than five (5) passengers that is used for the purpose of transporting school children to and from school.

The Board may enter into a contractual agreement with a qualified contractor for the transportation of students.

The Board may allow, by written authorization the use of a school bus or a special purpose bus for the transportation of adults at least sixty-five (65) years of age or adults with developmental or physical disabilities.

A special purpose bus is any motor vehicle designed and constructed for the accommodation of more than ten (10) passengers that meets the Federal school bus safety standards, except the requirement for stop arms and flashing lights, and that is used by the Board for transportation purposes not appropriate for school buses. A special purpose bus is not required to be constructed, equipped, or painted as specified for regular school buses.

A special purpose bus may not be used to provide ~~regular~~ transportation of school children between their residence and school (except for persons enrolled in a special program, i.e., for the habilitation or rehabilitation of students with developmental disabilities, orthopedic impairments, or multiple disabilities between their residence and the school.

[X ] A special purpose bus may be used for transportation of students from one school to another school.

A special purpose bus may be used to transport students and their supervisors, including coaches, managers, and sponsors to athletic, other extracurricular school activities, and field trips.

A special purpose bus may be used to transport homeless or foster students. If more than seven (7) students are being transported to schools in the same school corporation, a school bus or a special purpose bus must be used. If seven (7) or fewer students are being transported to schools in the same school corporation, a special purpose bus or an "appropriate vehicle" may be used to transport the students. The driver must meet the qualifications for the driver of a school bus or a special purpose bus set forth in State statute, as applicable, if a school bus or special purpose bus is used. as set forth in I.C. 20-27-9-5(e).

An "appropriate vehicle" is defined as a vehicle that: 1) owned by the School Corporation or contracted for by the Corporation



~~and 2) has a seating capacity of not more than eight (8) passengers including the driver. The term "appropriate vehicle" includes a car, truck, sport utility vehicle, or minivan.~~

- A. is owned by the Corporation or contracted for by the Corporation and
- B. has a seating capacity of not more than eight (8) passengers including the driver. The term "appropriate vehicle" includes a car, truck, sport utility vehicle, or minivan.

~~A special purpose bus is not required to be constructed, equipped, or painted as specified for a regular school bus.~~

#### **[START OF OPTION]**

[X ] A special purpose bus may be used to transport students for career and technical education programs. If more than seven (7) students are being transported to or from a career and technical education program, a school bus or a special purpose bus must be used. If seven (7) or fewer students are being transported to or from a career and technical education course an appropriate vehicle may be used to transport the students. The driver of the vehicle used to transport students to or from technical education programs must meet the qualifications for a driver of a school bus or special purpose bus set forth in State statute, as applicable, if a school bus or special purpose bus is used. A special purpose bus may be used to transport students from school to school or to/from school and a career and technical education program but may not be used to transport students between their residence and a career and technical education program.

An "appropriate vehicle" is defined as a vehicle that:

- A. is owned by the Corporation or contracted for by the Corporation; and
- B. has a seating capacity of not more than eight (8) passengers including the driver.

The term "appropriate vehicle" includes a car, truck, sport utility vehicle, or minivan.

#### **[END OF OPTION]**

If the special purpose bus has a capacity of less than sixteen (16) passengers, the operator must hold a valid operator's, chauffeur's, commercial drivers, or public passenger chauffeur's license. If the special purpose bus has a capacity of more than fifteen (15) passengers or is used to provide transportation:

- A. between an individual's residence and the school for an individual enrolled in a special program for the habilitation or rehabilitation of persons with a developmental or physical disability, and, if applicable, the individual's sibling;
- B. between an individual's residence and the preschool facility site for preschool children who attend preschool offered by the Corporation; or
- C. between an individual's residence and the program for persons with a developmental disability for persons with a developmental disability; the operator must meet the requirements of a regular school bus driver.

Transportation of eligible vocational or special education children between their home areas and schools outside the Corporation shall be arranged through the use of Corporation-owned vehicles, through cooperation with other corporations, through commercial carriers, and/or by other means in the most efficient and economical manner.

The Board shall provide transportation to non-public school students with legal settlement in the Corporation when seats are available on a bus on an existing route. This transportation shall be provided without charge when the Board does not incur additional expense, and shall be to and from the students' non-public school or the point on an established bus route that is nearest or most easily accessible to the non-public school.

Vehicle routes shall be established so that an authorized vehicle stop is available within reasonable walking distance of the home of a student entitled to transportation services.

The Board authorizes the installation and use of video recording devices in the school buses to assist the drivers in providing for the safety and well-being of the students while on a bus.

If the vehicle is equipped with safety belts that meet the standards stated in Federal Motor Vehicle Safety Standard Number 208

(49 CFR 571.208) and are standard equipment installed by the manufacturer, then each occupant shall have a safety belt properly fastened around his/her body at all times when the vehicle is in forward motion, as required by [State statute I.C. 9-19-10-2](#).

If a school bus driver must load or unload an elementary school student at a location that requires the student to cross a roadway that is a U.S. route or state route, the Superintendent shall present the school bus route to the Board for approval.

The collection of fees from students riding buses to or from school or a school event or activity is hereby specifically authorized. Such proposed fees shall be presented to the Board for review and approval at least annually as part of the fee schedule required by Board Policy.

Revised 7/21/11  
Revised 3/3/16  
Revised 1/10/19  
Revised 11/21/19

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#### Legal

I.C. 16-41-37-2.3, 16-41-37-4 ("school bus" defined, smoking prohibited)

I.C. 9-13-2-161 ("school bus" defined)

I.C. 9-19-10-2 (use of safety belt by motor vehicle occupants)

I.C. 9-21-12 (school bus operation)

I.C. 20-26-5-4(a)(5) (purchase of buses) and (8) (employ drivers)

I.C. 20-27-3 (State School Bus Committee)

I.C. 20-27-9 (use of school buses)

I.C. 20-27-10-0.5

I.C. 20-27-12-0.1

I.C. 20-27-12-0.3

I.C. 20-27-12-5

Hoagland v. Franklin Township Community School Corporation, No. 49S02-1410-PL-643, 27 N.E.3d 737 (Ind. 2015) (school corporation may discontinue transportation services for students)

Archdiocese of Indpls. v. MSD of Lawrence Twp., 945 N.E.2d 757 (Ind. App. 2011); Frame v. South Bend Schools, 480 N.E.2d 261 (Ind. App. 1985) (transporting non-public school students)

# Exhibit 11

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**Policy 8800 – Religious/Patriotic Ceremonies and Observations (Revised)**

**Policy 9700 – Relations with Special Interest Groups (Revised)**



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of RELIGIOUS/PATRIOTIC CEREMONIES AND OBSERVANCES
Code	po8800
Status	Work Session
Adopted	May 20, 2010
Last Revised	May 10, 2018

#### 8800 - RELIGIOUS/PATRIOTIC CEREMONIES AND OBSERVANCES

Decisions of the United States Supreme Court have made it clear that it is not the province of a public school to advance or inhibit religious beliefs or practices. Under the First and Fourteenth Amendments to the Constitution, this remains the inviolate province of the individual and the church of his/her choice. The rights of any minority, no matter how small, must be protected. No matter how well intended, either official or unofficial sponsorship of religiously-oriented activities by the school are offensive to some and tend to supplant activities which should be the exclusive province of individual religious groups, churches, private organizations, or the family.

School Corporation staff members shall not use prayer, religious readings, or religious symbols as a devotional exercise or in act of worship or celebration. The Corporation shall not act as a disseminating agent for any person or outside agency for any religious or anti-religious document, book, or article. Distribution of such materials on Corporation property by any party shall be in accordance with Policy 7510 and AG 7510A - Use of Corporation Facilities and Policy 9700 and AG 9700- Relations with Special Interest Groups.

The School Board acknowledges that it is prohibited from adopting any policy or rule respecting or promoting an establishment of religion or prohibiting any person from the free, individual, and voluntary exercise or expression of the individual's religious beliefs. Such exercise or expression may be limited to lunch periods or other non-instructional time periods when individuals are free to associate. However an individual who is required by his/her religious beliefs to engage in religious exercise (e.g. a formal prayer during the school day) will be accommodated unless such accommodation would disrupt an educational function.

In order that the right of each student to the free exercise of religion is guaranteed within the school and the freedom of each student to either engage in or refrain from religious observation on school grounds is subject to the least possible coercion from the State, the Board shall establish the daily observance of a moment of silence in each classroom or on school grounds.

Observance of religious holidays through devotional exercises or acts of worship is also prohibited. Acknowledgement of, explanation of, and teaching about religious holidays of various religions is encouraged. Celebration activities involving nonreligious decorations and use of secular works are permitted, but it is the responsibility of all faculty members to ensure that such activities are strictly voluntary, do not place an atmosphere of social compulsion or ostracism on minority groups or individuals, and do not interfere with the regular school program.

The United States flag shall be displayed in each classroom of every school in the School Corporation.

The flags of the United States and of Indiana shall be raised above each school and/or at other appropriate places during all school sessions, weather permitting. The flags shall be raised before the opening of school and taken down at its close every day.

The Board shall provide a daily opportunity for students to voluntarily recite the Pledge of Allegiance in each classroom or on school grounds. A student is exempt from participation and may not be required to participate if the student chooses not to or the student's parent chooses not to have the student to participate. The Superintendent shall develop administrative guidelines which ensure that any staff member who conducts this activity does it at an appropriate time, in an appropriate manner, and

with due regard to the need to protect the rights and the privacy of a nonparticipating student.

~~Each classroom teacher and building administrator may post the national motto "In God We Trust" in their classroom or building in a historic and/or patriotic context, but not in a religious setting. Whenever possible, the motto should be placed near the American flag. The Corporation may place a durable poster or framed picture of the national motto "In God We Trust" and an accurate representation of the United States flag and Indiana State flag positioned under the national motto in each school library and classroom within the Corporation. The durable poster or framed picture must meet the specifications outlined by State statute. The representation of the United States flag and the Indiana State flag must comply with any applicable federal or state laws concerning the design, dimensions, or presentation of the respective flags.~~

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- I.C. 1-1-11-2
- I.C. 1-2-2-1
- I.C. 1-2-3-6
- I.C. 20-30-5-0.5, 20-30-5-4.5
- I.C. 20-33-12
- 20 U.S.C. 4071 et seq.



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of RELATIONS WITH SPECIAL INTEREST GROUPS
Code	po9700
Status	Work Session
Adopted	May 20, 2010
Last Revised	April 6, 2017

#### 9700 - **RELATIONS WITH SPECIAL INTEREST GROUPS**

Any request from civic institutions, charitable organizations, or special interest groups which involve such activities as patriotic functions, contests, exhibits, sales of products to and by students, sending promotional materials home with students, graduation prizes, fundraising, and free teaching materials must be carefully reviewed to ensure that such activities promote student interests without advancing the special interests of any particular group.

It is the policy of the School Board that students, staff members, and School Corporation facilities not be used for advertising or promoting the interests of any nonschool agency or organization, public or private, without the approval of the Board or its delegated representative; and any such approval, granted for whatever cause or group, shall not be construed as an endorsement of said cause or group by this Board.

##### **A. Political/Commercial Interests**

All materials or activities proposed by outside political or commercial sources for student or staff use or participation shall be reviewed by the Superintendent or designee on the basis of their educational contribution to part or all of the school program, benefit to students, and good taste, and no such approval shall have the primary purpose of advancing the name, product, or special interest of the proposing group.

The Board shall permit the use of educational materials, programs, and equipment which contains commercial messages provided the content of such messages and the manner of presentation has been approved by the Superintendent or designee and is in compliance with the Corporation's administrative guidelines. Outside speakers representing commercial organizations will be welcome only when the commercial aspect is limited to naming the organization represented and the subject matter advances the educational aims of the Corporation.

##### **B. Patriotic Youth Membership Organizations**

The Board may provide a representative of a Patriotic Youth Membership Organization, as defined and organizations listed in Title 36 of the United States Code (e.g., Boy Scouts of America, Girl Scouts of the United States, Big Brothers and Big Sisters of America, and Boys and Girls Club of America) that has an educational purpose and promotes patriotism and civic involvement to provide an oral, written, or oral and written information regarding the organization to students of the Corporation.

If the organization makes such a request to provide oral or written information to students, the Corporation is required to provide at least one (1) time each school year, with a specific day and time specified, for the organization to provide the information on Corporation property.

Prior to the representative from the Patriotic Youth Membership Organization being permitted on Corporation property, the Corporation shall conduct an expanded criminal history check on the representative seeking to present information to

students on Corporation property. The Corporation may request written consent for the expanded criminal history check from the representative of the organization. The representative is responsible for all costs associated with obtaining the expanded criminal history check.

A Corporation may, upon receipt of the expanded criminal history check, refuse to allow a representative to provide information if the representative that has been selected from the Patriotic Youth Membership Organization has been convicted of a felony listed in I.C. 20-28-5-8(c) or I.C. 20-28-5-8(d).

### **C. Contests/Exhibits**

The Board recognizes that contests, exhibits, and the like may benefit individual students or the Corporation as a whole, but participation in such special activities may not:

1. have the primary effect of advancing a special product, group, or company;
2. make unreasonable demands upon the time and energies of staff or students or upon the resources of the Corporation;
3. involve any direct cost to the Corporation;
4. interrupt the regular school program unless the student body as a whole derives benefit from such activities;
5. cause the participants to leave the Corporation, unless:
  - a. Board Policy 2340 - Field and Other Corporation-Sponsored Trips has been complied with in all aspects;
  - b. the Board has granted special permission;
  - c. the parents of a minor student have granted their permission.

### **D. Distribution/Posting of Literature**

No outside organizations or staff member or student representing an outside organization may distribute or post literature on that organization's behalf on Corporation property either during or after school hours without the permission and prior review of the Superintendent.

The Superintendent shall establish administrative guidelines which ensure that:

1. criteria established in Policy 5722 - Student Publications and Productions are used to make a decision regarding materials that students seek to post or distribute;
2. distribution or posting of materials employees wish to distribute on behalf of an employee organization comply with the terms of negotiated collective bargaining agreements;
3. the school mail system is not used by students or staff for distribution of nonschool-related materials;
4. no materials from any profit-making organization are distributed for students to take home to their parents unless authorized by the Superintendent;
5. the time, place, and manner of distribution of all nonschool-related materials is clearly established and communicated.

### **E. Solicitation of Funds**

Any outside organization or staff member representing an outside organization desiring to solicit funds on school property must receive permission to do so from the Superintendent.

Permission to solicit funds will be granted only to those organizations, individuals, or staff members who meet the permission criteria established in the Corporation's administrative guidelines. Solicitation must take place at such times and places and in such a manner as specified in the administrative guidelines. In accordance with Board Policy 5830, no Corporation student may participate in the solicitation without the Superintendent's approval.

The Board disclaims all responsibility for the protection of, or accounting for, such funds.

Solicited funds are not to be deposited in any regular or special accounts of the Corporation.

This policy does not apply to the raising of funds for Corporation-sponsored or school-sponsored activities.

Use of the name, logo, or any assets of the Corporation, including, but not limited to facilities, technology, or communication networks, is prohibited without the specific permission of the Board.

The Board does not permit or sanction the use of crowdfunding for Corporation or specific school programs or activities, including co-curricular or extra-curricular activities.

Any booster club or school-support group that may use students in a fundraising activity must comply with I.C. 4-32.2-5-21 and Board Policy 5830 for any of the following types of fundraising events: bingo games, charity game nights, raffles, door prizes, fundraising festivals, activities related to pull tabs, punch-boards, tip-boards, and the like. Moreover, any fundraiser involving games of chance must comply with Indiana law, including obtaining the appropriate license or permits.

#### **F. Prizes/Scholarships**

The Board is appreciative of the generosity of organizations which offer scholarships or prizes to deserving students in this Corporation. But, in accepting the offer of such scholarships or prizes, the Board directs that these guidelines be observed:

1. No information, either academic or personal, shall be released from the student's record for the purpose of selecting a scholarship or prize winner without the permission of the student who is eighteen (18), or the parents of a student who is younger in accordance with the Board's policy on student records.
2. The type of scholarship or prize, the criteria for selection of the winner, and any restrictions upon it shall be approved by the Superintendent.

#### **G. Sale of School Supplies**

In determining the appropriateness of the sale of school supplies by organizations other than the Corporation, the Board requires that:

1. the organization have a purpose which will benefit the School Corporation and its students;
2. the organization's planned activities are clearly in the best interest of the Corporation and its students.

All funds generated by the sale of such school supplies shall be kept separate from other activity funds or other transactions of the Board.

#### **H. Surveys and Questionnaires**

Neither Corporation-related nor noncorporation-related organizations shall be allowed to administer a survey or questionnaire to students or staff unless the instrument and the proposed plan is submitted, in advance, to the Superintendent. If approved in accordance with the Superintendent's criteria, a copy of the results and the proposed manner of their communication are to be provided to the Superintendent for review and approval before they are released.



Legal

I.C. 4-32.2-4

I.C. 4-32.2-5

I.C. 4-32.2-5-21

I.C. 20-26-20

I.C. 20-28-5-8(c)

I.C. 20-28-5-8(d)

I.C. 20-30-5-5

I.C. 20-30-5-6

# Exhibit 12

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**Policy 6114 - Cost Principles - Spending Federal Funds (Revised)**

**Policy 6325 - Procurement - Federal Grants/Funds (Revised)**

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Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of COST PRINCIPLES - SPENDING FEDERAL FUNDS
Code	po6114
Status	Work Session
Adopted	February 2, 2017

#### 6114 - COST PRINCIPLES - SPENDING FEDERAL FUNDS

The Superintendent is responsible for the efficient and effective administration of grant funds through the application of sound management practices. Such funds shall be administered in a manner consistent with all applicable Federal, State and local laws, the associated agreements/assurances, program objectives and the specific terms and conditions of the grant award.

#### Cost Principles

Except where otherwise authorized by statute, costs shall meet the following general criteria in order to be allowable under Federal awards:

- A. Be necessary and reasonable for proper and efficient performance and administration of the Federal award and be allocable thereto under these principles.

To determine whether a cost is reasonable, consideration shall be given to:

1. whether a cost is a type generally recognized as ordinary and necessary for the operation of the School Corporation or the proper and efficient performance of the Federal award;
2. the restraints or requirements imposed by such factors as sound business practices, arm's length bargaining, Federal, State, local, tribal and other laws and regulations;
3. market prices for comparable goods or services for the geographic area;
4. whether the individuals concerned acted with prudence in the circumstances considering their responsibilities; and
5. whether the cost represents any significant deviation from the established practices or School Board policy which may increase the expense.

While Federal regulations do not provide specific descriptions of what satisfies the "necessary" element beyond its inclusion in the reasonableness analysis above, whether a cost is necessary is determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. A key aspect in determining whether a cost is necessary is whether the Corporation can demonstrate that the cost addresses an existing need, and can prove it.

When determining whether a cost is necessary, consideration may be given to whether:

1. the cost is needed for the proper and efficient performance of the grant program;
2. the cost is identified in the approved budget or application;

3. there is an educational benefit associated with the cost;
4. the cost aligns with identified needs based on results and findings from a needs assessment; and
5. the cost addresses program goals and objectives and is based on program data.

A cost is allocable to the Federal award if the goods or services involved are chargeable or assignable to the Federal award in accordance with the relative benefit received. This standard is met if the cost: 1) is incurred specifically for the Federal award; 2) benefits both the Federal award and other work of the Corporation and can be distributed in proportions that may be approximated using reasonable methods; 3) and is necessary to the overall operation of the Corporation and is assignable to the Federal award in accordance with cost principles mentioned here.

- B. Conform to any limitations or exclusions set forth in the as cost principles in Part 200 or in the terms and conditions of the Federal award.
- C. Be consistent with policies and procedures that apply uniformly to both Federally-financed and other activities of the Corporation.
- D. Be accorded~~afforded~~ consistent treatment. A cost cannot be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to a Federal award~~assigned~~ as an indirect cost under another award.
- E. Be determined in accordance with generally accepted accounting principles.
- F. Be representative of actual cost, net of all applicable credits or offsets.

The term "applicable credits" refers to those receipts or reductions of expenditures that operate to offset or reduce expense items allocable to the Federal award. Typical examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the State relate to the Federal award, they shall be credited to the Federal award, either as a cost reduction or a cash refund, as appropriate.

- G. Not be included as a match or cost-share, unless the specific Federal program authorizes Federal costs to be treated as such.
- H. Be adequately documented:
  1. in the case of personal services, the Superintendent shall implement a system for Corporation personnel to account for time and efforts expended on grant funded programs to assure that only permissible personnel expenses are allocated;
  2. in the case of other costs, all receipts and other invoice materials shall be retained, along with any documentation identifying the need and purpose for such expenditure if not otherwise clear.

I. Be incurred during the approved budget period.

The budget period means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which recipients are authorized to carry out authorized work and expend the funds awarded, including any funds carried forward or other revisions pursuant to the law. Prior written approval from the Federal awarding agency or State pass-through entity may be required to carry forward unobligated balances to subsequent budget periods unless waived.

### **Selected Items of Cost**

The Corporation shall follow the rules for selected items of cost at 2 C.F.R. Part 200, Subpart E when charging these specific expenditures to a Federal grant. When applicable, Corporation staff shall check costs against the selected items of cost requirements to ensure the cost is allowable. In addition, State, Corporation and program-specific rules, including the terms and conditions of the award, may deem a cost as unallowable, and Corporation personnel shall follow those rules as well.

### **Cost Compliance**

The Superintendent shall require that grant program funds are expended and are accounted for consistent with the requirements of the specific program and as identified in the grant application. Compliance monitoring includes accounting for direct or indirect

costs and reporting them as permitted or required by each grant. Costs incurred for the same purpose in like circumstances shall be treated consistently as either direct or indirect costs, but may not be double charged or inconsistently charged as both.

#### **Determining Whether a Cost is Direct or Indirect:**

- A. Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

These costs may include: salaries and fringe benefits of employees working directly on a grant-funded project; purchased services contracted for performance under the grant; travel of employees working directly on a grant-funded project; materials, supplies, and equipment purchased for use on a specific grant; program evaluation costs or other institutional service operations; and infrastructure costs directly attributable to the program (such as long distance telephone calls specific to the program, etc.).

- B. Indirect costs are those that have been incurred for a common or joint purpose benefitting more than one cost objective and are not readily assignable to the cost objectives specifically benefitted without effort disproportionate to the results achieved. Costs incurred for the same purpose in like circumstances shall be treated consistently as either direct or indirect costs.

These costs may include: general data processing, human resources, utility costs, maintenance, accounting, etc.

Federal education programs with supplement not supplant provisions must use a restricted indirect cost rate. In a restricted rate, indirect costs are limited to general management costs. General management costs do not include divisional administration that is limited to one component of the Corporation, the governing body of the Corporation, compensation of the Superintendent, compensation of the chief executive officer of any component of the Corporation, and operation of the immediate offices of these officers.

The salaries of administrative and clerical staff normally should be treated as indirect costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

1. Administrative or clerical services are integral to a project or activity.
2. Individuals involved can be specifically identified with the project or activity.
3. Such costs are explicitly included in the budget or have the prior written approval of the Federal awarding agency.
4. The costs are not also recovered as indirect costs.

Where a Federal program has a specific cap on the percentage of administrative costs that may be charged to a grant, that cap shall include all direct administrative charges as well as any recovered indirect charges.

Effort should be given to identify costs as direct costs whenever practical, but allocation of indirect costs may be used where not prohibited and where indirect cost allocation is approved ahead of time by the Indiana Department of Education (IDOE) or the pass-through entity (Federal funds subject to 2 C.F.R. Part 200 pertaining to determining indirect cost allocation).

#### **Timely Obligation of Funds**

Financial obligations ~~Obligations~~ are orders placed for property and services, contracts and subawards made, and similar transactions ~~during a given period~~ that require payment ~~by the non-Federal entity during the same or a future period~~.

This term is used when referencing a recipient's or subrecipient's use of funds under a Federal award.

The following table illustrates when funds are determined to be obligated under the U.S. Department of Education regulations:

If the obligation is for:

- A. Acquisition of property - on the date which the Corporation makes a binding written commitment to acquire the property.
- B. Personal services by an employee of the Corporation - when the services are performed.
- C. Personal services by a contractor who is not an employee of the Corporation - on the date which the Corporation makes a

binding written commitment to obtain the services.

D.

Performance of work other than personal services - on the date when the Corporation makes a binding written commitment to obtain the work.

E. Public utility services - when the Corporation receives the services.

F. Travel - when the travel is taken.

G. Rental of property - when the Corporation uses the property.

H. A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 C.F.R. Part 200, Subpart E - Cost Principles - on the first day of the project period.

## Period of Performance

~~All obligations must occur on or between the beginning and ending dates of the grant project. This period of time is known as the period of performance.~~ All financial obligations must occur during the period of performance. Period of performance means the total estimated time interval between the start of an initial Federal award when the Corporation is permitted to carry out the work authorized by the grant and the planned end date. The period of performance may include one or more funded portions or budget periods. The period of performance is dictated by statute and will be indicated in the grant award notification ("GAN"). As a general rule, State-administered Federal funds are available for obligation within the year that Congress appropriates the funds for. However, given the unique nature of educational institutions, for many Federal education grants, the period of performance is twenty-seven (27) months. This maximum period includes a fifteen (15) month period of initial availability, plus a twelve (12) month period for carryover. For direct grants, the period of performance is generally identified in the GAN.

In the case of a State-administered grant, financial obligations under a grant may not be made until the grant funding period begins or all necessary materials are submitted to the granting agency, application is approved or is in substantially approvable form, whichever is later. In the case of a direct grant, a grantee may use grant funds only for obligations may begin when it makes during the grant is approved, period unless an agreement exists with the awarding agency IDOE or the pass-through entity (e.g., Indiana Department of Education) to reimburse for pre-approval expenses.

If a Federal awarding agency or pass-through entity approves an extension, or if the Corporation extends under C.F.R. 200.308(e)(2), the Period of Performance will be amended to end at the completion of the extension. If a termination occurs, the Period of Performance will be amended to end upon the effective date of termination. If a renewal is issued, a distinct Period of Performance will begin.

For both State-administered and direct grants, regardless of the period of availability, the Corporation shall liquidate all financial obligations incurred under the award not later than ninety (90) days after the end of the funding period unless an extension is authorized. Any funds not obligated within the period of performance or liquidated within the appropriate timeframe are said to lapse and shall be returned to the awarding agency. Consequently, the Corporation shall closely monitor grant spending throughout the grant cycle.

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Legal	2 C.F.R. 200.403-407
	2 C.F.R. 200.413(a)-(c)
	2 C.F.R. 200.430(a)
	2 C.F.R. 200.431(a)
	2 C.F.R. 200.458
	2 C.F.R. 344(b)
	34 C.F.R. 75.703
	34 C.F.R. 76.707
	34 C.F.R 708(a)



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of PROCUREMENT – FEDERAL GRANTS/FUNDS
Code	po6325
Status	Work Session
Adopted	February 2, 2017
Last Revised	November 21, 2019

### 6325 - PROCUREMENT – FEDERAL GRANTS/FUNDS

Procurement of all supplies, materials, equipment, and services paid from Federal funds or School Corporation matching funds shall be made in accordance with all applicable Federal, State, and local statutes and/or regulations, the terms and conditions of the Federal grant, and School Board policies and administrative procedures.

The Superintendent shall ~~have and use a~~ ~~maintain a~~ procurement and contract administration system in accordance with the USDOE requirements (2 CFR 200.317-.326), including affirmative steps for small and minority businesses and women's business enterprises, for the administration and management of Federal grants and Federally-funded programs. The Corporation shall maintain ~~oversight thata contract administration system that~~ requires contractors to perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Except as otherwise noted, procurement transactions shall conform to the provisions of the Corporation's documented general purchasing Policy 6320 and AG 6320A.

All Corporation employees, officers (that is, Board members), and agents who have purchasing authority shall abide by the standards of conduct covering conflicts of interest and governing the actions of its employees, officers, and agents engaged in the selection, award, and administration of contracts as established in Policy 1130, Policy 3113 and Policy 4113 – Conflict of Interest.

The Corporation shall avoid acquisition of unnecessary or duplicative items. Additionally, consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis shall be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical approach. These considerations are given as part of the process to determine the allowability of each purchase made with Federal funds.

To foster greater economy and efficiency, the Corporation may enter into State and local intergovernmental agreements, where appropriate, for procurement or use of common or shared goods and services.

#### Competition

All procurement transactions for the acquisition of property or services required under a Federal award paid for from Federal funds or Corporation matching funds shall be conducted in a manner that encourages full and open competition and is in accordance with good administrative practice and sound business judgment. In order to promote objective contractor performance and eliminate unfair competitive advantage, the Corporation shall exclude any contractor that has developed or drafted specifications, requirements, statements of work, or invitations for bids or requests for proposals from competition for such procurements.

Some of the situations considered to be restrictive of competition include, but are not limited to, the following:

- A. unreasonable requirements on firms in order for them to qualify to do business;

- B. unnecessary experience and excessive bonding requirements;
- C. noncompetitive pricing practices between firms or between affiliated companies
- D. noncompetitive contracts to consultants that are on retainer contracts;
- E. organizational conflicts of interest;
- F. specification of only a "brand name" product instead of allowing for an "or equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
- G. any arbitrary action in the procurement process.

Further, the Corporation shall not use statutorily or administratively imposed State, local, or tribal geographical preferences in the evaluation of bids or proposals unless 1) an applicable Federal statute expressly mandates or encourages a geographic preference; or the Corporation is contracting for architectural and engineering services, in which case geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

To the extent that the Corporation uses a pre-qualified list of persons, firms or products to acquire goods and services that are subject to policy, the pre-qualified list includes enough qualified sources as to ensure maximum open and free competition. The Corporation allows vendors to apply for consideration to be placed on the list not less than annually.

The Corporation shall require that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to provide maximum open and free competition. The Corporation shall not preclude potential bidders from qualifying during the solicitation period.

#### **Solicitation Language (Purchasing Procedures)**

The Corporation shall have written procurement procedures that require that all solicitations made pursuant to this policy incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it shall conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which shall be met by offers shall be clearly stated; and the solicitation shall identify all requirements which the offerors shall fulfill and all other factors to be used in evaluating bids or proposals.

The Board will not approve any expenditure for an unauthorized purchase or contract.

#### **Procurement Methods**

The Corporation shall ~~utilize~~have and use documented procedures, consistent with the standards described above, for the following methods of procurement:

##### **A. Informal Procurement Methods**

When the value of the procurement for property or services under a Federal award does not exceed the simplified acquisition threshold or a lower threshold established by the State, formal procurement methods are not required. The Corporation may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the simplified acquisition threshold include:

###### **1. Micropurchases**

Procurement by micropurchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$10,000. To the maximum extent practicable, the Corporation ~~should~~shall distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be made without soliciting competitive quotations if the Purchasing Agent identified in Policy 6320 considers the price to be reasonable based on research, experience, purchase history, or other relevant information and documents are filed accordingly. The Corporation ~~shall maintain~~maintains evidence of this reasonableness in the records of all purchases made by this



method.

[X ] Unless otherwise defined by State or local law, corporations are responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of the risk, and its documented procurement procedures. The micro-purchase threshold used by the Corporation shall be authorized or not prohibited under State, local, or tribal laws or regulations. A corporation which is qualified as a low-risk auditee for the most recent audit (C.F.R. 200.520) may increase the micro-purchase threshold up to \$50,000. An eligible corporation may self-certify the increased micro-purchase threshold on an annual basis after completing the annual internal institutional risk assessment to identify, mitigate, and manage financial risks. The self-certification, in accordance with 2 C.F.R. 200.335, must include a justification, clear identification of the threshold, and supporting documentation of the qualifications listed above. [DRAFTING NOTE: The Federal regulation allows for a \$50,000 threshold. While this authority is allowed for an entity qualified as a low-risk auditee, Neola does not suggest its use due to the complexity and subjectivity of the mechanism.]

## 2. Small Purchases

~~Small purchase procedures provide for relatively simple and informal procurement methods for securing services, supplies, and other property the cost of which exceeds \$3,500 but is less than the competitive bid threshold of \$250,000. Small purchase procedures require that price or rate quotations shall be obtained from two (2) qualified sources.~~

Small purchases include the acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold of \$250,000 [not to exceed \$250,000]. Small purchase procedures require price or rate quotations shall be obtained from ( X ) two (2) ( ) an adequate number of [END OF OPTION] qualified sources. [Drafting Note: Unless the pass-through entity or State law defines the number of quotes required, the Corporation may define in policy how many quotations are adequate. The number must be greater than one (1).]

Corporations are responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures which must not exceed the threshold established in the Federal Acquisition Regulations (FAR). When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

### B. Formal Procurement Methods

When the value of the procurement for property or services under a Federal award exceeds the simplified acquisition threshold, or a lower threshold established by the State, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement method can be used in accordance with the standards on competition in 200.319 or non-competitive procurement. The formal methods of procurement are:

#### B. 1. Sealed Bids

Sealed, competitive bids shall be obtained when the purchase of, and contract for, single items of supplies, materials, or equipment amounts to more than \$250,000 [the lesser of the established Small Purchase threshold or \$250,000] and when the Board determines to build, repair, enlarge, improve, or demolish a school building/facility the cost of which will exceed the amount allowed by Indiana statute.

In order for sealed bidding to be feasible, the following conditions shall be present:

- a. a complete, adequate, and realistic specification or purchase description is available;
- b. two (2) or more responsible bidders are willing and able to compete effectively for the business; and
- c. the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

When sealed bids are used, the following requirements apply:

- a. Bids shall be solicited in accordance with the provisions of State law and Policy 6320. Bids shall be solicited from ( ) ( ) ( X ) an adequate number of [END OF OPTION] qualified suppliers, providing sufficient response time prior to the date set for the opening of bids. The invitation to bid shall be publicly advertised.
- b. The invitation for bids shall include product/contract specifications and pertinent attachments and shall define the items and/or services required in order for the bidder to properly respond.

- 
- c. All bids shall be opened at the time and place prescribed in the invitation for bids; bids shall be opened publicly.
- 
- d. A firm fixed price contract award shall be made in writing to the lowest responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may be used to determine the low bid only when prior experience indicates that such discounts are usually taken.
- 
- e. The Board reserves the right to reject any or all bids for sound documented reason.

## 2. Proposals

Procurement by proposals is a method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids or in the case of a recognized exception to the sealed bid method. Indiana law stipulates a threshold for which sealed bids are required. (See Policy 6320.) **[Drafting Note: Federal law does not require a competitive proposal unless the procurement is for over \$250,000. The State/Corporation may set a lower threshold for sealed bids and competitive proposals. Sealed bids are required when the Board seeks to build, repair, enlarge, improve, or demolish a school building/facility if the cost will exceed \$50,000. (See Policy 6320).]**

If this method is used, the following requirements apply:

- 
- a. Requests for proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to the publicized requests for proposals shall be considered to the maximum extent practical.
- 
- b. Proposals shall be solicited from ( ) \_\_\_\_\_ (  ) an adequate number of **[END OF OPTION]** sources.
- 
- c. The Corporation shall use its written method for conducting technical evaluations of the proposals received and for selecting recipients.
- 
- d. Contracts shall be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The Corporation may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can be used only in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

## 3. Noncompetitive Procurement

Procurement by noncompetitive proposals allows for solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- 
- a. micro-purchases
- 
- b. the item is available only from a single source
- 
- c. the public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation
- 
- d. the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the Corporation
- 
- e. after solicitation of a number of sources, competition is determined to be inadequate

### **Domestic Preference for Procurement**

As appropriate and to the extent consistent with law, the Corporation shall, to the extent practicable under a Federal award,

provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. Such requirements shall be included in all subawards including all contracts and purchase orders for work or products under the Federal award.

### **Contract/Price Analysis**

The Corporation shall perform a cost or price analysis in connection with every procurement action in excess of \$250,000, including contract modifications. A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the Corporation shall come to an independent estimate prior to receiving bids or proposals.

When performing a cost analysis, the Corporation shall negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

### **Time and Materials Contracts**

The Corporation uses a time and materials type contract only 1) after a determination that no other contract is suitable; and 2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the Corporation is the sum of the actual costs of materials and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, the Corporation sets a ceiling price for each contract that the contractor exceeds at its own risk. Further, the Corporation shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

### **Suspension and Debarment**

The Corporation shall award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. All purchasing decisions shall be made in the best interests of the Corporation and shall seek to obtain the maximum value for each dollar expended. When making a purchasing decision, the Corporation shall consider such factors as 1) contractor integrity; 2) compliance with public policy; 3) record of past performance; and 4) financial and technical resources.

The Superintendent shall have the authority to suspend or debar a person/corporation, for cause, from consideration or award of further contracts. The Corporation is subject to and shall abide by the nonprocurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180.

Suspension is an action taken by the Corporation that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR Part 180 Subpart G)

Debarment is an action taken by the Superintendent to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR Chapter 1). A person so excluded is debarred. (2 CFR Part 180 Subpart H)

The Corporation shall not subcontract with or award subgrants to any person or company who is debarred or suspended. For contracts over \$25,000, the Corporation shall confirm that the vendor is not debarred or suspended by either checking the Federal government's System for Award Management, which maintains a list of such debarred or suspended vendors at [www.sam.gov](http://www.sam.gov); collecting a certification from the vendor; or adding a clause or condition to the covered transaction with that vendor. (2 CFR Part 180 Subpart C)

### **Bid Protest**

The Corporation maintains the following protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency.

A bidder who wishes to file a bid protest shall file such notice and follow procedures prescribed by the Request For Proposals

(RFPs) or the individual bid specifications package for resolution. Bid protests shall be filed in writing with the Superintendent within seventy-two (72) hours of the opening of the bids in protest.

Within five (5) days of receipt of a protest, the Superintendent shall review the protest as submitted and render a decision regarding the merits of the protest and any impact on the acceptance and rejection of bids submitted. Notice of the filing of a bid protest shall be communicated to the Board and shall be so noted in any subsequent recommendation for the acceptance of bids and awarding of contracts.

Failure to file a notice of intent to protest or failure to file a formal written protest within the time prescribed shall constitute a waiver of proceedings.

#### **Maintenance of Procurement Records**

The Corporation ~~shall maintain~~ maintains records sufficient to detail the history of all procurements. These records shall include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (including a cost or price analysis).

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Legal	I.C. 5-22-2-21, 5-22-2-30, 5-22-2-38
	I.C. 5-22-3-3
	I.C. 5-22-6-1 and 5-22-6-2
	I.C. 5-22-7-1 et seq.
	I.C. 5-22-8-2, 5-22-8-3
	I.C. 5-22-10-1 et seq.
	I.C. 5-22-16-1, 5-22-16-2
	I.C. 20-26-4-6, 20-26-4-8
	I.C. 20-26-5-4
	2 C.F.R. 200.317 - .326
	2 C.F.R. 200.520
	2 C.F.R. Appendix II to Part 200

# Exhibit 13

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**Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities (New)**

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Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of New Policy - Special Update - July 2020 - Title IX - NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES
Code	po2266
Status	Work Session

## 2266 – NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES

### Introduction

The School Board of the [School City of Hobart](#) (hereinafter referred to as "the Board" or "the Corporation") does not discriminate on the basis of sex (including sexual orientation or gender identity) in its education programs or activities and is required by Title IX of the Education Amendments of 1972 and its implementing regulations not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. **[DRAFTING NOTE: In the new Title IX regulations, the term "admission" refers to admission to postsecondary institutions (i.e., institutions of graduate higher education, institutions of undergraduate higher education, institutions of professional education, and institutions of vocational education); thus, if a K-12 school does not operate a vocational program (e.g., a school or institution that has as its primary purpose preparation of students to pursue a technical, skilled, or semi-skilled occupation or trade or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers full-time study), the K-12 school does not officially need to include "admission and" in the preceding sentence (and where that phrase is used throughout this policy); Neola, however, has elected to include it because all K-12 schools "enroll" students and often the term "enroll" is viewed as synonymous with the term "admit." Since K-12 schools cannot discriminate when enrolling students into the education programs or activities that they operate, it seems appropriate to include the term "admission."]** The Board is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment.

The Board prohibits Sexual Harassment that occurs within its education programs and activities. When the Corporation has actual knowledge of Sexual Harassment in its education program or activity against a person in the United States, it shall promptly respond in a manner that is not deliberately indifferent.

Pursuant to its Title IX obligations, the Board is committed to eliminating Sexual Harassment and will take appropriate action when an individual is determined responsible for violating this policy. Members of the Corporation Community who commit Sexual Harassment are subject to the full range of disciplinary sanctions set forth in this policy. Third Parties who engage in Sexual Harassment also are subject to the disciplinary sanctions listed in this policy. The Board will provide persons who have experienced Sexual Harassment ongoing remedies as reasonably necessary to restore or preserve access to the Corporation's education programs and activities.

### Coverage

This policy applies to Sexual Harassment that occurs within the Corporation's education programs and activities and that is committed by a member of the Corporation Community or Third Party.

This policy does not apply to Sexual Harassment that occurs off school grounds, in a private setting, and outside the scope of the Corporation's education programs and activities; such Sexual Misconduct / Sexual Activity may be prohibited by the Student Code of Conduct if committed by a student, or by Board policies and administrative guidelines, applicable State and/or Federal laws (X) and/or Employee / Administrator Handbook(s) **[End of Option]** if committed by a Corporation employee.

Consistent with the U.S. Department of Education's implementing regulations for Title IX, this policy does not apply to Sexual

Harassment that occurs outside the geographic boundaries of the United States, even if the Sexual Harassment occurs in the Corporation's education programs or activities. Sexual Harassment that occurs outside the geographic boundaries of the United States is governed by the Student Code of Conduct if committed by a student or by Board policies and administrative guidelines, applicable State and/or Federal laws (X) and/or Employee / Administrator Handbook(s) [End of Option] if committed by a Corporation employee.

Complaints alleging sexual harassment and/or discrimination on the basis of sex also are covered by and subject to the investigation procedures in Board Policy 5517 - Anti-Harassment. Complaints not covered by this policy still may be governed by and subject to the procedures in Policy 5517 - Anti-Harassment.

## Definitions

Terms used in this policy shall have those meanings defined herein; terms not defined herein shall be construed according to their plain and ordinary meanings.

**Sexual Harassment:** "Sexual Harassment" means conduct on the basis of sex that satisfies one or more of the following:

- A. A Corporation employee conditioning the provision of an aid, benefit, or service of the Corporation on an individual's participation in unwelcome sexual conduct (often called "quid pro quo" harassment);
- B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Corporation's education program or activity; or
- C. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), or "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

"Sexual assault" means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault includes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape.

**[DRAFTING NOTE: Select Option 1 or Option 2. While Neola is comfortable with Option 2, given that offenses 2 (sodomy) and 3 (sexual assault with an object) cover parts of Option 1 that are not included in Option 2, Neola suggests the Board consult with its local legal counsel concerning which definition of "Rape" to adopt. By way of background, Option 1 represents the definition of "Rape" that is required by the Clery Act's regulations – i.e., the definition contained in the Summary Reporting System ("SRS") of the FBI's Uniform Crime Reporting ("UCR") Program. Unfortunately, the SRS is being faded out effective January 2021; at that time, the SRS is being replaced by the National Incident-Based Reporting System (NIBRS), which contains a different definition of "Rape" – i.e., the definition contained in Option 2. Additionally, it is relevant to note that the definitions of the remaining sexual assault offenses already are derived from the NIBRS's definitions. If a Board selects Option 1, it may be necessary to update the policy later to a new definition of "Rape" (i.e., the one contained in Option 2) once the SRS is retired. Alternatively, a Board could include both definitions to hopefully minimize the need to amend this policy – even on a technical amendment basis - so soon after it is adopted. If a Board elects to include both definitions, it should include the following parentheticals: (a) at the end of Option 1: "(effective until the FBI retires the Summary Reporting System, which is scheduled for January 2021"; and (b) at the end of Option 2: "(effective upon the retirement of the Summary Reporting System, which is scheduled for January 2021."]**

1. ~~**[OPTION 1]** Rape is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. Attempted rape is included. **[END OF OPTION 1]**~~

**X [OPTION 2]** Rape is the carnal knowledge of a person (i.e., penetration, no matter how slight, of the genital or anal opening of a person), without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. **[END OF OPTION 2]**

2. Sodomy is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
3. Sexual Assault with an Object is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where

the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia.

4. Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
5. Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by State law.
6. Statutory Rape is sexual intercourse with a person who is under the statutory age of consent as defined by State law.
7. Consent refers to words or actions that a reasonable person would understand as agreement to engage in the sexual conduct at issue. A person may be incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. A person who is incapacitated is not capable of giving consent. **[DRAFTING NOTE: The Title IX regulations do not require the Board to adopt a particular definition of "consent," but it is advisable to adopt a definition because "consent" is an element of each of the first four terms listed above. Since there are a number of different definitions of consent from which to choose, the Board should consult its local legal counsel concerning selecting a specific definition of consent that represents its position on the topic; the investigator(s) and decision-maker(s) will then uniformly apply the adopted definition.]**
8. Incapacitated refers to the state where a person does not understand and/or appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition, disability, or due to a state of unconsciousness or sleep. **[DRAFTING NOTE: Depending on the definition of "consent" that the Board adopts, it may be necessary to define "incapacitated" in the policy. If it is not defined in the policy, the Administrative Guideline provides an opportunity to expand on the concept of "consent" and what the Board means by the term "incapacitated."]**

**"Domestic violence"** includes felony or misdemeanor crimes of violence committed by:

- A. A current or former spouse or intimate partner of the victim;
- B. A person with whom the victim shares a child in common;
- C. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- D. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime occurred; or
- E. Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime occurred.

**"Dating violence"** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

**"Stalking"** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to – (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.

**Complainant:** "Complainant" means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

**Respondent:** "Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

**Formal Complaint:** "Formal Complaint" means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the Corporation investigate the allegation(s) of Sexual Harassment. At the time of filing a Formal Complaint with the Corporation, a Complainant must be participating in or attempting to participate in the Corporation's education program or activity. A "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal that the Board provides for this purpose) that



contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or a party to the Formal Complaint and must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

**Actual Knowledge:** "Actual knowledge" means notice of Sexual Harassment or allegations of Sexual Harassment to the Corporation's Title IX Coordinator, or any Corporation official who has authority to institute corrective measures on behalf of the Board, or any Corporation employee. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the Corporation. "Notice" includes, but is not limited to, a report of Sexual Harassment to the Title IX Coordinator. This standard is not met when the only Corporation official with actual knowledge is the Respondent.

**Supportive Measures:** "Supportive measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the Corporation's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Corporation's educational environment or deter Sexual Harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, school/campus escort services, mutual restrictions of contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus (including school buildings and facilities), (X) referral to Employee Assistance Program **[End of Option]**, and other similar measures.

**Education Program or Activity:** "Education program or activity" refers to all operations of the Corporation, including but not limited to in-person and online educational instruction, employment, extracurricular activities, athletics, performances, and community engagement, and outreach programs. The term applies to all activity that occurs on school grounds or on other property owned or occupied by the Corporation. It also includes locations, events, and circumstances that take place off-school property/grounds over which the Board exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs.

**Corporation Community:** "Corporation Community" refers to students and Corporation employees (i.e., administrators and professional and classified staff), as well as Board members, agents, volunteers, contractors, and other persons subject to the control and supervision of the Board.

**Third Parties:** "Third Parties" include, but are not limited to, guests and/or visitors on Corporation property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with the Board, and other individuals who come in contact with members of the Corporation Community at school-related events/activities (whether on or off Corporation property).

**Inculpatory Evidence:** "Inculpatory evidence" is evidence that tends to establish a Respondent's responsibility for alleged Sexual Harassment.

**Exculpatory Evidence:** "Exculpatory evidence" is evidence that tends to clear or excuse a Respondent from allegations of Sexual Harassment.

**Day(s):** Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays),

**Eligible Student:** "Eligible Student" means a student who has reached eighteen (18) years of age or is attending an institution of postsecondary education.

#### **Title IX Coordinator(s)**

The Board designates and authorizes the following individual(s) to oversee and coordinate its efforts to comply with Title IX and its implementing regulations:

**[DRAFTING NOTE: Neola suggests the Board consider appointing both a male and a female Title IX Coordinator. The Board must list either the Name or Title of the Title IX Coordinator; while the Board may list both the Name and Title, Neola suggests that the Board consider only listing the Title in this policy (so it does not need to revise/amend its policy whenever there is a change in the actual person(s) holding the designated position(s)), but list both the Name and Title in the requisite postings (e.g., website) and publications (e.g., handbooks) and in the Administrative Guideline.]**

[Jonathan Mock](#)  
[Director of Human Resources & Compliance](#)  
[32 East 7th Street](#)

[Hobart, IN 46342](#)  
[\(219\) 942-8885 Ext. 1](#)  
[jmock@hobart.k12.in.us](mailto:jmock@hobart.k12.in.us)

\_\_\_\_\_  
\_\_\_\_\_  
(Name)

\_\_\_\_\_  
\_\_\_\_\_  
(Corporation Title)

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\_\_\_\_\_  
(Office Address)

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\_\_\_\_\_  
(Telephone Number)

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(Corporation-issued E-mail Address)

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(Name)

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(Corporation Title)

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\_\_\_\_\_  
(Office Address)

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(Telephone Number)

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\_\_\_\_\_  
(Corporation-issued E-mail Address)

The Title IX Coordinator shall report directly to the Superintendent except when the Superintendent is a Respondent. In such matters, the Title IX Coordinator shall report directly to (  ) the Board Attorney (  ) \_\_\_\_\_. Questions about this policy should be directed to the Title IX Coordinator.

The Superintendent shall notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, Corporation employees, and all unions or professional organizations holding collective bargaining or professional agreements with the Board of the following information:

The Board of the [School City of Hobart](#) does not discriminate on the basis of sex in its education program or activity and is required by Title IX and its implementing regulations not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. The Corporation's Title IX Coordinator(s) is/are:

[Jonathan Mock](#)  
[Director of Human Resources & Compliance](#)  
[32 East 7th Street](#)  
[Hobart, IN 46342](#)  
[\(219\) 942-8885 Ext. 1](#)  
[jmock@hobart.k12.in.us](mailto:jmock@hobart.k12.in.us)

\_\_\_\_\_  
\_\_\_\_\_  
(Name)

\_\_\_\_\_  
\_\_\_\_\_  
(Corporation Title)

\_\_\_\_\_  
\_\_\_\_\_  
(Office Address)

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(Corporation-issued E-mail Address)

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(Telephone Number)

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(Corporation-issued E-mail Address)

Any inquiries about the application of Title IX and its implementing regulations to the Corporation may be referred to the Title IX Coordinator(s), the Assistant Secretary for the U.S. Department of Education's Office for Civil Rights, or both.

The Board has adopted a grievance process that provides for the prompt and equitable resolution of student and employee complaints alleging any action that is prohibited by Title IX and/or its implementing regulations. The grievance process is included in Policy 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, which is available at: ~~https://www.hobart.k12.in.us/titleix~~ ~~[insert the web address at which Policy 2266 can be found, or insert a hyperlink tied to the title of the policy]~~ The grievance process specifically addresses how to report or file a complaint of sex discrimination, how to report or file a formal complaint of Sexual Harassment, and how the Corporation will respond.

The Superintendent also shall prominently display the Title IX Coordinator's(s') contact information – including Name(s) and/or Title(s), Phone Number(s), Office Address(es), and Email Address(es) – and this Policy on the Corporation's website and in each handbook or catalog that the Board makes available to applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, Corporation employees, and all unions or professional organizations holding collective bargaining or professional agreements.

### Grievance Process

The Board is committed to promptly and equitably resolving student and employee complaints alleging Sexual Harassment. The Corporation's response to allegations of Sexual Harassment will treat Complainants and Respondents equitably, including providing supportive measures to the Complainant and Respondent, as appropriate, and following this Grievance Process before the imposition of any disciplinary sanctions or other actions, other than supportive measures, against the Respondent.

The Title IX Coordinator(s), along with any investigator(s), decision-maker(s), or any person(s) designated to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

If a determination of responsibility for Sexual Harassment is made against the Respondent, the Board will provide remedies to the Complainant. The remedies will be designed to restore or preserve equal access to the Corporation's education program or activity. Potential remedies include, but are not limited to, individualized services that constitute supportive measures. Remedies also may be disciplinary or punitive in nature and may burden the Respondent.

The Process described herein relates exclusively to complaints brought under this Policy. The Corporation will continue to handle complaints subject to the Corporation's other nondiscrimination and anti-harassment policies, including Policy 5517 - Anti-Harassment; Policy 5517.01 - Bullying; Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity; Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability; 1422/3122/4122 - Nondiscrimination and Equal Employment Opportunity; and 1662/3362/4362 - Anti-Harassment.

### Report of Sexual Discrimination/Harassment

Any person may report sex discrimination, including Sexual Harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or Sexual Harassment), in person, by mail, by telephone, or by electronic mail, using the Title IX Coordinator's(s') contact information listed above, or by any other means that results in the Title IX Coordinator receiving the person's oral or written report. Reports may be made at any time (including during non-business hours), by using the telephone number(s) or electronic mail address(es), or by mail to the office address(es), listed for the Title IX Coordinator(s). ~~(-) Anonymous reports~~ Reports may be submitted using ~~(-)~~ the online reporting form posted at ~~https://www.hobart.k12.in.us/titleix~~ ~~[insert the web address for the reporting form, or insert a hyperlink tied to the phrase "online reporting form" [or] (-) or the hotline reporting number (219) 942-TIPS ([insert phone number] 219-942-8477)].~~ [DRAFTING NOTE: It is recommended that the Title IX Coordinator(s) be trained on evaluation of anonymous reports to determine if sufficient information is provided as to proceed under either this Policy or another related policy.]

Students, Board members, and Corporation employees are required, and other Corporation Community members and Third Parties are encouraged, to report allegations of sex discrimination or Sexual Harassment promptly to the/a Title IX Coordinator or to any Corporation employee, who will, in turn, notify the/a Title IX Coordinator. [DRAFTING NOTE: All Corporation employees are mandatory reporters pursuant to the Title IX regulations. Existing policy, however, also requires students and Board members to report any information they have concerning allegations of sex discrimination or Sexual Harassment. Neola suggests that the Board continue this additional requirement in this policy, along with the language encouraging other individuals to make such reports; this will coincide with similar requirements that are imposed on Board members and students in other nondiscrimination and anti-harassment policies. If the Board decides it does not want to go beyond the scope of the regulations for purposes of this policy, it should replace the first sentence of this paragraph with either of the following: "Corporation employees are required to report allegations of sex discrimination or Sexual Harassment promptly to the Title IX Coordinator." OR "Corporation

**employees are required, and Board members, Corporation Community members and Third Parties are encouraged, to report allegations of sex discrimination or Sexual Harassment promptly to the/a Title IX Coordinator or to any Corporation employee, who in turn will notify the/a Title IX Coordinator.”]** Reports can be made orally or in writing and should be as specific as possible. The person making the report should, to the extent known, identify the alleged victim(s), perpetrator(s), and witness(es), and describe in detail what occurred, including date(s), time(s), and location(s).

If a report involves allegations of Sexual Harassment by or involving the Title IX Coordinator, the person making the report should submit it to the Superintendent, or another Board employee who, in turn, will notify the Superintendent of the report. The Superintendent will then serve in place of the Title IX Coordinator for purposes of addressing that report of Sexual Harassment. **[DRAFTING NOTE: If the Superintendent is the Title IX Coordinator, substitute ( ) \_\_\_\_\_ ( ) Board Attorney ( ) “Board President” in place of “Superintendent.”]**

The Board does business with Third Parties who are not students or employees of the Board. Notwithstanding any rights that a given Third-Party Respondent may have under this policy, the Board retains the right to limit any vendor’s, contractor’s, or Third Party’s access to school grounds for any reason. The Board further retains all rights it enjoys by contract or law to terminate its relationship with any Third Party irrespective of any process or outcome under this policy.

A person may file criminal charges simultaneously with filing a Formal Complaint. A person does not need to wait until the Title IX investigation is completed before filing a criminal complaint. Likewise, questions or complaints relating to Title IX may be filed with the U.S. Department of Education’s Office for Civil Rights at any time.

Any allegations of Sexual Misconduct / Sexual Activity not involving Sexual Harassment will be addressed through the procedures outlined in Board policies **(X)** and/or administrative guidelines **[END OF OPTION]**, the applicable Student Code of Conduct, or Employee / Administrator Handbook(s).

Because the Board is considered to have actual knowledge of Sexual Harassment or allegations of Sexual Harassment if any Corporation employee has such knowledge, and because the Board must take specific actions when it has notice of Sexual Harassment or allegations of Sexual Harassment, a Corporation employee who has independent knowledge of or receives a report involving allegations of sex discrimination and/or Sexual Harassment must **promptly** notify the/a Title IX Coordinator **of such information or report, within two (2) days of learning the information or receiving the report.** **[DRAFTING NOTE: The regulations do not specify within how many days the Corporation employee must notify the Title IX Coordinator of receiving a report of Sexual Harassment; Neola suggests “two (2) days.” Alternatively, the Board could make this language more open-ended – e.g., “\* \* \* must immediately/promptly notify the/a Title IX Coordinator of such information or report.”]** The Corporation employee must also comply with mandatory reporting responsibilities regarding suspected abuse, abandonment or neglect of a child pursuant to I.C. 31-33-5-1 and Policy 8462– Student Abuse and Neglect, if applicable. If the Corporation employee’s knowledge is based on another individual bringing the information to the Corporation employee’s attention and the reporting individual submitted a written complaint to the Corporation employee, the Corporation employee must provide the written complaint to the Title IX Coordinator.

If a Corporation employee fails to report an incident of Sexual Harassment of which the Corporation employee is aware, the Corporation employee may be subject to disciplinary action, up to and including termination.

When a report of Sexual Harassment is made, the Title IX Coordinator shall promptly (i.e., within two (2) days **[DRAFTING NOTE: The regulations do not define “promptly” or otherwise specify within how many days the contact has to be made; Neola suggests “two (2) days.”]** of the Title IX Coordinator’s receipt of the report of Sexual Harassment) contact the Complainant (including the parent/guardian if the Complainant is under eighteen (18) years of age or under guardianship) to discuss the availability of supportive measures, consider the Complainant’s wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Any supportive measures provided to the Complainant or Respondent shall be maintained as confidential, to the extent that maintaining such confidentiality will not impair the ability of the Corporation to provide the supportive measures.

**Emergency Removal:** Subject to limitations and/or procedures imposed by State and/or Federal law, the Corporation may remove a student Respondent from its education program or activity on an emergency basis after conducting an individualized safety and risk analysis. The purpose of the individualized safety and risk analysis is to determine whether the student Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment that justifies removal. If the Corporation determines the student Respondent poses such a threat, it will so notify the student Respondent and the student Respondent will have an opportunity to challenge the decision immediately following the removal. See Policy Policy 5605 – Suspension and Expulsion of Students with Disabilities 5610 – Suspension and Expulsion of Students, Policy 5611 – Due Process Rights, and 5620 – Court Assisted Resolution of Suspension and Expulsion. **[DRAFTING NOTE: The Board may substitute “Superintendent” or “Title IX Coordinator” in place of “Corporation” in the first sentence. Alternatively, the Superintendent could designate, through the administrative guideline, one or more administrators, including the Title IX Coordinator, to make emergency removal decisions after conducting the individualized safety and risk analysis. In Indiana, emergency removals may be imposed only**

**in the manner delineated in I.C. 20-33-8. Additionally, emergency removals must be conducted in compliance with the Individuals with Disabilities Education Act, as amended, and/or Section 504 of the Rehabilitation Act of 1973.]**

If the Respondent is a non-student employee, the Corporation may place the Respondent on administrative leave during the pendency of the grievance process.

For all other Respondents, including other members of the Corporation Community and Third Parties, the Board retains broad discretion to prohibit such persons from entering onto its school grounds and other properties at any time and for any reason, whether after receiving a report of Sexual Harassment or otherwise.

### **Formal Complaint of Sexual Harassment**

A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information set forth above ( ) and by \_\_\_\_\_ **[DRAFTING NOTE: The Board may set forth additional method(s) by which a Formal Complaint may be filed (e.g., online portal submission).]** If a Formal Complaint involves allegations of Sexual Harassment by or involving the Title IX Coordinator, the Complainant should submit the Formal Complaint to the Superintendent, who will designate another person to serve in place of the Title IX Coordinator for the limited purpose of implementing the grievance process with respect to that Formal Complaint. **[DRAFTING NOTE: If the Superintendent is the Title IX Coordinator, substitute ( ) \_\_\_\_\_ ( ) "Board Attorney" ( ) "Board President" in place of "Superintendent" in the preceding sentence.]**

When the Title IX Coordinator receives a Formal Complaint or signs a Formal Complaint, the Corporation will follow its Grievance Process, as set forth herein. Specifically, the Corporation will undertake an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, and will not make credibility determinations based solely on a person's status as a Complainant, Respondent, or witness.

It is a violation of this policy for a Complainant(s), Respondent(s), and/or witness(es) to knowingly ~~make~~making false statements or knowingly ~~submit~~submitting false information during the grievance process, including intentionally making a false report of Sexual Harassment or submitting a false Formal Complaint. The Board will not tolerate such conduct, which is a violation of the Student Code of Conduct (X) and the Employee / Administrator Handbook. **[DRAFTING NOTE: The Board should confirm/verify that its Student Code of Conduct and any Employee/Administrator Handbook(s) include a prohibition against intentionally making a false report, submitting a false Formal Complaint, or making a false statement or submitting false information during a Title IX grievance process. Such misconduct should be a sanctionable offense pursuant to the Student Code of Conduct and Employee/Administrator Handbook(s).]**

The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

### **Timeline**

The Corporation will seek to conclude the grievance process, ~~including resolving any appeals,~~ within ninety (90) days of receipt of the Formal Complaint. **[DRAFTING NOTE: The Title IX regulations do not specify a deadline for completing the grievance process; Neola suggests 90 days (i.e., 12 weeks) based on the following considerations: (1) within two days of receipt of the Formal Complaint, the Title IX Coordinator sends requisite notice to parties; (2) two weeks (14 calendar days) to investigate (remember the need for advance written notice to a party and adequate time for the party to prepare before any interviews/hearings/meetings; time for parties to present witnesses (including expert witnesses) and other inculpatory or exculpatory evidence); (3) at the conclusion of the investigation and before finalizing the investigative report, two weeks (a minimum of 10 calendar days) for the parties to review the evidence and submit their feedback; (4) up to a week (i.e., 7 calendar days) for the investigator to consider such feedback and prepare the investigative report; (4) two week (a minimum of 10 calendar days) for the parties to review the investigative report and submit questions and receive answers to questions submitted to parties and witnesses (if the Board permits hearings, the hearing cannot occur until the Complainant and Respondent have had a minimum of 10 calendar days to review the investigative report); (5) a week (i.e., 7 calendar days) for the decision-maker(s) to prepare the decision; (6) up to a week (Neola suggests three (3) calendar days) for the parties to review the decision and submit a notice of appeal; (7) a week (7 calendar days) for the parties to submit their written statements in support of or in opposition to the appeal; and (8) a week (7 calendar days) for the appeal decision-maker(s) to prepare a final decision. Any informal resolution process could impact this schedule. Given this fairly aggressive timeline, the Board may want to remove the appeal process from this timeline – i.e., delete the phrase ", including resolving any appeals," from the sentence, which would allow more time for potential use of the informal resolution process. Further, the preceding schedule does not provide time for a hearing that could further extend the timeline needed to complete the grievance process.]**

If the Title IX Coordinator offers informal resolution processes, the informal resolution processes may not be used by the Complainant or Respondent to unduly delay the investigation and determination of responsibility. The timeline, however, may be subject to a temporary delay of the grievance process or a limited extension for good cause with written notice to the

Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as: the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; and the need for language assistance or accommodation of disabilities. **[DRAFTING NOTE: The Board should consult with its local legal counsel on a case-by-case basis to determine whether there may be other reasons/good cause for a delay or extension of time – e.g., the complexity and severity of the matter, or school breaks.]** (X) The Title IX Coordinator will provide the parties with reasonable updates on the status of the grievance process.

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide written notice of the following to the parties who are known:

- A. Notice of the Board's grievance process, including any informal resolution processes;
- B. Notice of the allegations of misconduct that potentially constitute Sexual Harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, if known. The written notice must:
  1. include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
  2. inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence.
  3. inform the parties of any provision in the Student Code of Conduct (X), this policy, (X) and/or Employee/Administrator Handbook **[DRAFTING NOTE: While the Title IX regulations only reference "code of conduct" Neola suggests that the Board reference other applicable documents that expressly prohibit an individual from making false statements or knowingly submitting false information as part of the grievance process]** that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

**[DRAFTING NOTE: The Title IX regulations do not define "upon receipt" or otherwise specify within how many days the notice must be sent; Neola suggests the Title IX Coordinator send the notice within "two (2) days" of receipt of the Formal Complaint; this suggestion is memorialized in the corresponding Administrative Guideline. Please note, however, that it could be argued that the notice should be sent sooner. Regardless, the Title IX Coordinator should have a template notice form available that can be completed quickly with the requisite information after receipt of the Formal Complaint.]**

If, during the course of the investigation, the investigator becomes aware of allegations about the Complainant or Respondent that are not included in the original notice provided to the parties, the investigator will notify the Title IX Coordinator, and the Title IX Coordinator will decide whether the investigator should investigate the additional allegations; if the Title IX Coordinator decides to include the new allegations as part of the investigation, the Title IX Coordinator will provide notice of the additional allegations to the parties whose identities are known.

#### **Dismissal of a Formal Complaint**

The Corporation shall investigate the allegations in a Formal Complaint, unless the conduct alleged in the Formal Complaint:

- A. would not constitute Sexual Harassment (as defined in this policy) even if proved;
- B. did not occur in the Corporation's education program or activity; or
- C. did not occur against a person in the United States.

If one of the preceding circumstances exist, the Title IX Coordinator shall dismiss the Formal Complaint. If the Title IX Coordinator dismisses the Formal Complaint due to one of the preceding reasons, the Corporation may still investigate and take action with respect to such alleged misconduct pursuant to another provision of an applicable code of conduct, Board policy, and/or Employee / Administrator Handbook.

The Title IX Coordinator may dismiss a Formal Complaint, or any allegations therein, if at any time during the investigation ~~or~~ **hearing** **[DRAFTING NOTE: Select this option if the Board permits hearings.]**

- A. a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- B. the Respondent is no longer enrolled in the Corporation or employed by the Board; or
- C. specific circumstances prevent the Corporation from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If the Title IX Coordinator dismisses a Formal Complaint or allegations therein, the Title IX Coordinator promptly must send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.

### **Consolidation of Formal Complaints**

The Title IX Coordinator may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

Where a grievance process involves more than one Complainant or more than one Respondent, references in this policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

**[DRAFTING NOTE: The Board may adopt provisions, rules, or practices other than those required by the Title IX regulations as part of its grievance process for handling Formal Complaints of Sexual Harassment, provided they apply equally to both parties and do not violate the language in the regulations. The Board should discuss this option with its local legal counsel.]**

### **Informal Resolution Process**

Under no circumstances shall a Complainant be required as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, to waive any right to an investigation and adjudication of a Formal Complaint of Sexual Harassment. Similarly, no party shall be required to participate in an informal resolution process.

If a Formal Complaint is filed, the Title IX Coordinator may offer to the parties an informal resolution process. If the parties mutually agree to participate in the informal resolution process, the Title IX Coordinator shall designate a trained individual to facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The informal resolution process may be used at any time prior to the decision-maker(s) reaching a determination regarding responsibility.

If the Title IX Coordinator is going to propose an informal resolution process, the Title IX Coordinator shall provide to the parties a written notice disclosing:

- A. the allegations;
- B. the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations; and
- C. any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint.

Before commencing the informal resolution process, the Title IX Coordinator shall obtain from the parties their voluntary, written consent to the informal resolution process.

During the pendency of the informal resolution process, the investigation and adjudication processes that otherwise would occur are stayed and all related deadlines are suspended.

The informal resolution process is not available to resolve allegations that a Corporation employee (X) or another adult member of the Corporation Community or Third Party sexually harassed a student. **[DRAFTING NOTE: The Title IX regulations prohibit the use of an informal resolution process when the allegations involve a Corporation employee sexually harassing a student; Neola suggests that it also may not be appropriate to use informal resolution processes when a Third Party is alleged to have sexually harassed a student. Since this is not a requirement, it is offered as an option. If the optional language is not selected, the Board retains the discretion to use informal resolution**

**processes as may be determined appropriate by the Title IX Coordinator on a case-by-case basis.]**

(X) The informal resolution process is not available to resolve allegations regarding a sexual assault involving a student Complainant and a student Respondent. **[DRAFTING NOTE: While this language is not required by the Title IX regulations, Neola suggests the Board select this option because of the severity of this type of Sexual Harassment.]**

**Investigation of a Formal Complaint of Sexual Harassment**

In conducting the investigation of a Formal Complaint and throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility is on the Corporation, not the parties.

In making the determination of responsibility, the decision-maker(s) is/are directed to use the (X) preponderance of the evidence standard ~~(-) clear and convincing evidence standard~~. The decision-maker(s) is charged with considering the totality of all available evidence, from all relevant sources.

**[DRAFTING NOTE: Neola suggests the Board adopts the "preponderance of the evidence standard." The preponderance of the evidence standard is an equitable standard of proof and the legal standard by which most civil lawsuits, including civil rights claims, are adjudicated in the United States. This standard requires the decision-maker(s) to determine that there is a greater than fifty percent (50%) likelihood (i.e., it is more probable/likely than not) that the Respondent engaged in the alleged Sexual Harassment.**

The "clear and convincing evidence standard," on the other hand, is a higher standard of evidence, in which the Corporation would need to show to the decision-maker(s) that the truth of the allegations is highly probable (i.e., that the contention is substantially more likely to be true than untrue). Some argue that using the clear and convincing standard may skew the playing field toward the Respondent by enhancing protection for the Respondent at the expense of the Complainant.

**The same standard of evidence must be applied for Formal Complaints against students as is applied to Formal Complaints against employees, and the same standard of evidence must be used for all Formal Complaints of Sexual Harassment.]**

The Corporation is not permitted to access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the party provides the Corporation with voluntary, written consent to do so; if a student party is not an Eligible Student, the Corporation must obtain the voluntary, written consent of a parent.

Similarly, the investigator(s) and decision-maker(s) may not require, allow, rely upon or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege in writing.

As part of the investigation, the parties have the right to:

- A. present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
- B. have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The Corporation may not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding.

(X) The Corporation establishes the following restrictions, which apply equally to both parties, regarding the extent to which an advisor may participate in the proceedings: **[DRAFTING NOTE: The Board should consult with its local legal counsel concerning any restrictions it may want to place on an advisor's participation in the proceedings, including rules of decorum. This topic is also addressed in Administrative Guideline 2266.]**

Advisors may support either party during the proceedings, but may not speak on behalf of the party.

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- C. ~~(-) Board Policy 2461 -- Recording of Corporation Meetings Involving Students and/or Parents controls whether a person is allowed to audio record or video record any meeting or grievance proceeding.~~



Neither party shall be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence.

The Corporation will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all ~~( ) hearings~~ [DRAFTING NOTE: Select this option if the Board permits hearings], investigative interviews or other meetings, with sufficient time for the party to prepare to participate. (X) The investigator(s) and decision-maker(s) must provide a minimum of one ( 1 ) days' notice with respect to investigative interviews and other meetings. ~~( ) and ( ) days' notice with respect to hearings~~ [End of Option]. [DRAFTING NOTE: The Board should consult with its local legal counsel concerning whether to set a minimum amount of advance notice – i.e., define "sufficient time"; Neola suggests a minimum of three (3) days' advanced notice for hearings and one (1) day's advanced notice for investigative interviews and other meetings.]

Both parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the Corporation does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

Prior to completion of the investigative report, the ~~( ) investigator~~ (X) Title IX Coordinator [END OF OPTION] will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. [DRAFTING NOTE: The Board should select the following option if it provides for a hearing before the decision-maker] ~~( ) The Corporation will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.~~

At the conclusion of the investigation, the investigator shall create an investigative report that fairly summarizes relevant evidence and send the report to the Title IX Coordinator, and The Title IX Coordinator will send the report to each party and the party's advisor, if any, for their review and written response. The Title IX Coordinator ~~investigator~~ will send the investigative report in an electronic format or a hard copy, at least ten (10) calendar days prior to: [DRAFTING NOTE: Select one of the following two options. The Board should select the second option if it is providing a hearing or permitting the decision-maker(s) to decide whether to conduct a hearing on a case-by-case basis.]

- A. (X) the decision-maker(s) issuing a determination regarding responsibility.
- B. ~~( ) a hearing or the decision-maker(s) issuing a determination regarding responsibility.~~

### Determination of Responsibility

The Title IX Coordinator shall appoint a decision-maker(s) to issue a determination of responsibility. The decision-maker(s) cannot be the same person(s) as the Title IX Coordinator(s) or the investigator(s). [DRAFTING NOTE: The Board may, but need not, provide for a hearing before the decision-maker(s) reaches a determination of responsibility. Neola suggests that the Board not provide for a hearing. If the Board decides not to provide for a hearing, the Board should select OPTION 1; if the Board elects to provide a hearing or to provide the decision-maker(s) with the discretion to conduct a hearing on a case-by-case basis, the Board should select OPTION 2. Additionally, if the Board operates a vocational program (see the Drafting Note contained in the first paragraph for the definition of "vocational program"), Neola suggests that the Board consult its local legal counsel concerning whether it must provide for a live hearing related to formal complaints involving parties associated with the vocational program. If the Board determines with its legal counsel that it must provide for a live hearing, it should select Option E of Option 2, at least with respect to formal complaints involving parties involved in the vocational program (i.e., it does not need to provide for a live hearing for its regular K-12 education programs and activities that it operates.)

#### (X) [OPTION 1]

After the investigator sends the investigative report to the parties and the decision-maker(s), and before the decision-maker(s) reaches a determination regarding responsibility, the decision-maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless such

questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

**[END OF OPTION 1 - NOTE: If Option 1 is selected proceed to [END OF OPTION 2] and commence with Determination Regarding Responsibility]**

~~(-)[OPTION 2 - NOTE: Option 2 is inclusive of all Letter Options (A) - (E)]~~

~~After the investigator sends the investigative report to the parties and the decision-maker(s), and prior to the decision-maker(s) issuing a determination of responsibility, the decision-maker(s) (-) may (-) will conduct a hearing.~~

~~**[DRAFTING NOTE: Select Option A or Option B. If the Board selects "may," it should select Option A; if it selects "will," it should select Option B.]**~~

~~(-)[Option A]~~

~~If the decision-maker(s) decides not to conduct a hearing, the decision-maker(s) will state in writing the reason for not conducting a hearing and provide that explanation to the parties. Additionally, before the decision-maker(s) reaches a determination regarding responsibility, the decision-maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.~~

~~If the decision-maker(s) elects to conduct a hearing, the hearing will proceed as follows:~~

~~**[End of Option A]**~~

~~(-)[Option B]~~

~~The hearing will proceed as follows:~~

~~**[End of Option B]**~~

~~**[DRAFTING NOTE: Select Option C or Option D or Option E; Neola suggests Option C]**~~

~~(-)[Option C]~~

~~At the hearing, the decision-maker(s) will allow each party or each party's advisor to submit relevant questions to the decision-maker(s) who will ask the questions to the other party and any witnesses. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Only relevant cross-examination and other questions, including follow-up questions and questions challenging credibility, will be permitted. Such cross-examination and questioning at the hearing shall be conducted orally and in real time.~~

~~(-) If a party does not have an advisor present at the hearing, the Corporation will provide, without fee or charge to that party, an advisor of the Corporation's choice, who may be, but is not required to be, an attorney, to submit questions on behalf of that party.~~

~~**[End of Option C]**~~

~~(-)[Option D]~~

~~Prior to commencing the hearing, the decision-maker(s) will decide whether to allow each party's advisor to ask questions directly of the other party and any witnesses, or instead to have the questions submitted to the decision-maker(s) who will ask the other party and any witnesses the questions.~~

~~If the decision-maker(s) permits each party's advisor to ask the other party and any witnesses relevant questions and follow-up questions, including questions challenging credibility, such cross-examination at the hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. If the decision-maker(s) permit each party's advisor to ask questions directly to the other party and any witnesses, the decision-maker(s) shall not restrict the extent to which advisors may participate in the hearing.~~

~~If, on the other hand, the decision-maker(s) decides to have each party's advisor (or the party, if the party does not have an advisor) submit relevant questions to the decision-maker(s), the decision-maker will ask the questions to the other party and any witnesses. Such cross-examination at the hearing will be conducted orally and in real time by the decision-maker(s) based upon questions submitted by a party's advisor or the party.~~

~~Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.~~

~~If the decision-maker(s) permits the parties' advisors to ask the questions directly, and a party does not have an advisor present at the hearing, the Corporation will provide, without fee or charge to that party, an advisor of the Corporation's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.~~

~~(-) If the decision-maker(s) decides not to have the parties' advisors ask the questions directly, and a party does not have an advisor present at the hearing, the Corporation will provide, without a fee or charge to that party, an advisor of the Corporation's choice, who may be, but is not required to be, an attorney, to submit questions on behalf of that party.~~

~~**[End of Option D]**~~

~~(-)[Option E]~~

~~At the live hearing, the decision-maker(s) shall permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally; notwithstanding anything to the contrary in this policy, the decision-maker shall not restrict the extent to which advisors may participate in the hearing.~~

~~Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.~~

~~If a party does not have an advisor present at the live hearing, the Corporation will provide, without fee or charge to that party, an advisor of the Corporation's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.~~

**[End of Option E]**

~~Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.~~

~~If a party or witness does not submit to cross-examination at the hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.~~

~~Hearings may be conducted with all parties physically present in the same geographic location or, at the discretion of the ~~( )~~ decision-maker(s) ~~( )~~ Title IX Coordinator(s) **[end of option]**, any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling participants simultaneously to see and hear each other. At the request of either party, the decision-maker shall provide for the hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or witness answering questions. The Corporation will create an audio or audio-visual recording, or transcript, of any hearing and make it available to the parties for inspection and review.~~

**[END OF OPTION 2]**

**Determination regarding responsibility:** The decision-maker(s) will issue a written determination regarding responsibility. To reach this determination, the decision-maker(s) must apply the  preponderance of the evidence standard ~~( ) clear and convincing evidence standard~~. **[DRAFTING NOTE: Be sure to select the same evidence standard previously selected above.]**

The written determination will include the following content:

- A. Identification of the allegations potentially constituting Sexual Harassment pursuant to this policy;
- B. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, [and] methods used to gather other evidence ~~( ) and hearings held~~ **[DRAFTING NOTE: The Board should only select this option if it permits hearings];**
- C. Findings of fact supporting the determination;
- D. Conclusions regarding the application of the applicable code of conduct to the facts;
- E. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the decision-maker(s) is recommending that the Corporation impose on the Respondent(s) and whether remedies designed to restore or preserve equal access to the Corporation's education program or activity should be provided by the Corporation to the Complainant(s); and
- F. The procedures and permissible bases for the Complainant(s) and Respondent(s) to appeal.

~~( ) [OPTION 1]~~

~~Informal or formal disciplinary sanctions/consequences may be imposed on a student Respondent who is determined responsible for violating this policy (i.e., engaging in Sexual Harassment):~~

**[END OF OPTION]**

[OPTION 2]

Disciplinary sanctions/consequences may be imposed on a student Respondent who is determined responsible for violating this policy (i.e., engaging in Sexual Harassment), including but not limited to:

**[END OF OPTION]**

- A. Informal Discipline

1.  writing assignments;
2.  changing of seating or location;
3.  before-school,  lunchtime,  after-school detention;
4.  in-school discipline;
5.  Saturday school.

#### B. Formal Discipline

1.  suspension of bus riding/transportation privileges;
2.  removal from co-curricular and/or extra-curricular activity(ies), including athletics;
3.  emergency removal;
4.  suspension for up to ten (10) school days;
5.  expulsion for up to eighty (80) school days or the number of school days remaining in a ( ) semester, whichever is greater;
6.  expulsion for up to one (1) year; and
7.  any other sanction authorized by the Student Code of Conduct.

If the decision-maker(s) determines the student Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the Superintendent of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with Policy 5600 – Student Discipline, Policy 5605 – Suspension/Expulsion of Students with Disabilities, Policy 5610 – Suspension and Expulsion of Students, Policy 5610.02 – In-School Discipline, and Policy 5611 – Due Process Rights. Discipline of a student Respondent must comply with the applicable provisions of the Individuals with Disabilities Education Act (IDEA), as amended, and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.

Disciplinary sanctions/consequences may be imposed on an employee Respondent who is determined responsible for violating this policy including but not limited to (i.e., engaging in Sexual Harassment):

- A.  oral or written warning;
- B.  written reprimands;
- C.  performance improvement plan;
- D.  required counseling;
- E.  required training or education;
- F.  demotion;
- G.  suspension with pay;
- H.  suspension without pay;
- I.  termination;
- J.  any other sanction authorized by any applicable Employee/Administrator Handbook and/or applicable collective bargaining agreement.

If the decision-maker(s) determines the employee Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The

Title IX Coordinator will notify the Superintendent of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with applicable due process procedures, whether statutory or contractual. If the Superintendent is the Respondent, the Title IX Coordinator will notify the  Board Attorney ~~( ) Board ( )~~ of the recommended remedies for consideration and, if necessary and appropriate, implementation in compliance with applicable due process procedures, whether statutory or contractual. **[DRAFTING NOTE: The Board should review applicable policy(ies) / administrative guidelines/employee handbooks to determine whether changes are needed to stated timelines related to the imposition of discipline as a result of possible delays caused by the Board's obligation to follow this grievance process and procedures; likewise, the Board may need to discuss with union representatives how the implementation of this grievance process may impact any disciplinary provisions contained in applicable collective bargaining agreements (e.g., timelines, permitted attendees at investigative interviews, etc.).]**

Discipline of an employee will be implemented in accordance with Federal and State law, Board policy, and applicable provisions of any relevant collective bargaining agreement.

Disciplinary sanctions/consequences may be imposed on a non-student / non-employee member of the Corporation Community or a Third Party who is determined responsible for violating this policy (i.e., engaging in Sexual Harassment), including but not limited to:

- A.  oral or written warning;
- B.  suspension or termination/ cancellation of the Board's contract with the third-party vendor or contractor;
- C.  mandatory monitoring of the third party while on school property and/or while working/interacting with students;
- D.  restriction/prohibition on the third party's ability to be on school property; and
- E.  any combination of the same.

If the decision-maker(s) determines the third party Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including imposition of sanctions. The Title IX Coordinator will notify the Superintendent of the recommended remedies, so appropriate action can be taken.

The decision-maker(s) will provide the written determination to the Title IX Coordinator who will provide the written determination to the parties simultaneously.

In ultimately imposing a disciplinary sanction/consequence, the Superintendent (or the Board when the Superintendent is the Respondent) will consider the severity of the incident, previous disciplinary violations (if any), and any mitigating circumstances. If the Respondent is a Member of the Board, s/he shall be excluded from any determination regarding the imposition of a disciplinary sanction/consequence by the remaining School Board members.

The Corporation's resolution of a Formal Complaint ordinarily will not be impacted by the fact that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

At any point in the grievance process and procedures, the Superintendent (or the Title IX Coordinator if the Superintendent is the Respondent) may involve local law enforcement and/or file criminal charges related to allegations of Sexual Harassment that involve a sexual assault.

The Title IX Coordinator is responsible for effective implementation of any remedies.

### Appeal

Both parties have the right to file an appeal from a determination regarding responsibility, or from the Title IX Coordinator's dismissal of a Formal Complaint or any allegations therein, on the following bases:

- A. Procedural irregularity that affected the outcome of the matter (e.g., material deviation from established procedures);
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; and
- C. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant(s) or Respondent(s) that affected the outcome of the matter.

**[DRAFTING NOTE: The Board may insert additional grounds on which an appeal may be filed.]**

D. The recommended remedies (including disciplinary sanctions/consequences) are unreasonable in light of the findings of fact (i.e., the nature and severity of the Sexual Harassment);

E. ( ) \_\_\_\_\_

~~(-) The Complainant(s) may not challenge the ultimate disciplinary sanction/consequence that is imposed.~~

Any party wishing to appeal the decision-maker(s)'s determination of responsibility or the Title IX Coordinator's dismissal of a Formal Complaint or any allegations therein must submit a written appeal to the Title IX Coordinator within five ( 5 ) days after receipt of the decision-maker(s)'s determination of responsibility or the Title IX Coordinator's dismissal of a Formal Complaint or any allegations therein. **[DRAFTING NOTE: If the Board indicated above an intent to ordinarily complete the grievance process, including any appeal, within ninety (90) days of receipt of the Formal Complaint, Neola suggests that the deadline for submitting a written appeal be set at "within five (5) days" of the appealing party's receipt of the decision-maker's(s') determination of responsibility.]**

Nothing herein shall prevent the Superintendent (or the Board when the Superintendent is the Respondent) from imposing any remedy, including disciplinary sanction, while the appeal is pending.

As to all appeals, the Title IX Coordinator will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

The decision-maker(s) for the appeal shall not be the same person(s) as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator(s). The decision-maker(s) for the appeal shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant(s) or Respondent(s) and shall receive the same training as required of other decision-makers.

Both parties shall have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. **[DRAFTING NOTE: Select OPTION 1, OPTION 2, OPTION 3, or OPTION 4.]**

~~(-)[OPTION 1] The decision-maker(s) for the appeal shall determine when each party's written statement is due. [END OF OPTION 1]~~

~~(-)[OPTION 2] The parties' written statements in support of, or challenging, the determination of responsibility must be submitted within \_\_\_\_\_ (\_\_\_\_) days after the Title IX Coordinator provides notice to the non-appealing party of the appeal. [END OF OPTION 2]~~

~~(-)[OPTION 3] The appealing party's written statement must be submitted within \_\_\_\_\_ (\_\_\_\_) days after the Title IX Coordinator receives notice of the appeal. The other party's written statement must be submitted within \_\_\_\_\_ days after the Title IX Coordinator provides that party a copy of the appealing party's written statement. (-) The appealing party will have \_\_\_\_\_ (\_\_\_\_) days to submit a rebuttal to the other party's written statement. [DRAFTING NOTE: Neola does not recommend that the Board select this extra option.] [END OF OPTION 3]~~

[OPTION 4] Specifically, the appealing party **MUST** submit with the notice of appeal a written statement challenging the determination of responsibility. The nonappealing party shall have up to five ( 5 ) days after receipt of the appealing party's written statement to submit his/her written statement in support of the determination of responsibility. **[END OF OPTION 4]**

**[DRAFTING NOTE: If the Board indicated above an intent to ordinarily complete the grievance process, including any appeal, within ninety (90) days of receipt of the Formal Complaint, Neola suggests that the deadline for both parties to submit a written statement pursuant to OPTION 2 be set at "within five (5) days" of the Title IX Coordinator providing notice to the non-appealing party of the appeal.**

**If the Board selects OPTION 3, Neola suggests that the party's respective written statements be submitted within three (3) days of the triggering event (i.e., submission of the notice of appeal for the appealing party, and receipt of the appealing party's written statement for the nonappealing party), and if the Board selects the extra option in OPTION 3, Neola suggests the appealing party have only two (2) days after receipt of the non-appealing party's written statement to submit the rebuttal. Alternatively, in order to expedite the appeal, the Board could select OPTION 4 and require the appealing party to submit his/her written statement challenging the determination of responsibility at the same time s/he submits his/her notice of appeal. The nonappealing party would then be permitted to submit a written statement in support of the determination of responsibility within the same number of days that the appealing party had to submit the notice of appeal/statement challenging the determination of responsibility (e.g. three or five days, depending on the appeal deadline selected above).]**

The decision-maker(s) for the appeal shall issue a written decision describing the result of the appeal and the rationale for the result. The original decision-maker's(s') determination of responsibility will stand if the appeal request is not filed in a timely manner or the appealing party fails to show clear error and/or a compelling rationale for overturning or modifying the original determination. The written decision will be provided to the Title IX Coordinator who will provide it simultaneously to both parties. The written decision will be issued within ten (10) days of when the parties' written statements were submitted. **[DRAFTING NOTE: If the Board indicated above an intent to ordinarily complete the grievance process, including any appeal, within ninety (90) days of receipt of the Formal Complaint, Neola suggests that the deadline for the decision-maker(s) of the appeal to issue the final decision be set at "within five (5) days" of the date the parties submitted their written statements or the date a last written statement is submitted pursuant to Option 3 or Option 4.]**

The determination of responsibility associated with a Formal Complaint, including any recommendations for remedies / disciplinary sanctions, becomes final when the time for filing an appeal has passed or, if an appeal is filed, at the point when the decision-maker(s) for the appeal's decision is delivered to the Complainant and the Respondent. **(X)** No further review beyond the appeal is permitted.

### Retaliation

Neither the Board nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, constitute(s) retaliation. Retaliation against a person for making a report of Sexual Harassment, filing a Formal Complaint, or participating in an investigation **(→) and/or hearing [DRAFT NOTE: Select this option if the Board permits hearings] (end of option)**, is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Complaints alleging retaliation may be filed according to the grievance process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy shall not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

### Confidentiality

The Corporation will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Sexual Harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, or FERPA's regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder (i.e., the Corporation's obligation to maintain confidentiality shall not impair or otherwise affect the Complainant's and Respondent's receipt of the information to which they are entitled related to the investigative record and determination of responsibility).

### Application of the First Amendment

The Board will construe and apply this policy consistent with the First Amendment to the U.S. Constitution. In no case will a Respondent be found to have committed Sexual Harassment based on expressive conduct that is protected by the First Amendment.

### Training

The Corporation's Title IX Coordinator, along with any investigator(s), decision-maker(s), or person(s) designated to facilitate an informal resolution process, must receive training on:

- A. the definition of Sexual Harassment (as that term is used in this policy);
- B. the scope of the Corporation's education program or activity;

- C. how to conduct an investigation and implement the grievance process ~~( ) that includes hearings~~ **[DRAFTING NOTE: Select this option if the Board permits hearings] (end of option)**, appeals and informal resolution processes, as applicable; and
- D. how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interests, and bias.

All Corporation employees will be trained concerning their legal obligation to report Sexual Harassment to the Title IX Coordinator. This training will include practical information about how to identify and report Sexual Harassment. **[DRAFTING NOTE: While the Title IX regulations do not specifically require this training, it is critical that the Board train all employees concerning this legal obligation since the Board will be considered to have "actual knowledge" of Sexual Harassment if any Corporation employee has notice of such conduct.]**

### Recordkeeping

As part of its response to alleged violations of this policy, the Corporation shall create, and maintain for a period of seven (7) calendar years, records of any actions, including any supportive measures, taken in response to a report or Formal Complaint of Sexual Harassment. In each instance, the Corporation shall document the basis for its conclusion that its response was not deliberately indifferent and document that it has taken measures designed to restore or preserve equal access to the Corporation's education program or activity. If the Corporation does not provide a Complainant with supportive measures, then the Corporation will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the Corporation in the future from providing additional explanations or detailing additional measures taken.

The Corporation shall maintain for a period of seven (7) calendar years the following records:

- A. Each Sexual Harassment investigation including any determination regarding responsibility ~~( ) and any audio or audio-visual recording or transcript that is made of any hearing~~ **[DRAFTING NOTE: Select this option if the Board permits hearings.] (end of option)**, any disciplinary sanctions recommended and/or imposed on the Respondent(s), and any remedies provided to the Complainant(s) designed to restore or preserve equal access to the Corporation's education program or activity;
- B. Any appeal and the result therefrom;
- C. Any informal resolution and the result therefrom; and
- D. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

The Corporation will make its training materials publicly available on its website.  If a person is unable to access the Corporation's website, the Title IX Coordinator will make the training materials available upon request for inspection by members of the public.

### Outside Appointments, Dual Appointments, and Delegations

The Board retains discretion to appoint suitably qualified persons who are not Corporation employees to fulfill any function of the Board under this policy, including, but not limited to, Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

The Board also retains discretion to appoint two or more persons to jointly fulfill the role of Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

The Superintendent may delegate functions assigned to a specific Corporation employee under this policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor, to any suitably qualified individual, and such delegation may be rescinded by the Superintendent at any time.

**[DRAFTING NOTE: The following option expressly sets forth authority that the Board has regardless of whether it is included in this policy, but is offered for those school boards that may want to affirmatively communicate to/address these issues for readers of this policy.]**

### ~~( ) Discretion in Application~~

~~The Board retains discretion to interpret and apply this policy in a manner that is not clearly unreasonable, even if the Board's~~



~~interpretation or application differs from the interpretation of any specific Complainant and/or Respondent. Despite the Board's reasonable efforts to anticipate all eventualities in drafting this policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the Board retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable. The provisions of this policy are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the Board retains discretion to revise this policy at any time, and for any reason. The Board may apply policy revisions to an active case provided that doing so is not clearly unreasonable.~~

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Legal

I.C. 31-33-5-1

I.C. 20-33-8

20 U.S.C. 1681 et seq., Title IX of the Education Amendments of 1972 (Title IX)

20 U.S.C. 1400 et seq., The Individuals with Disabilities Education Act of 2004 (IDEA), as amended

42 U.S.C. 2000c et seq., Title IV of the Civil Rights Act of 1964

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

42 U.S.C. 1983

34 C.F.R. Part 106

OCR's Revised Sexual Harassment Guidance (2001)

20 U.S.C. 1092(F)(6)(A)(v)

34 U.S.C. 12291(a)(10)

34 U.S.C. 12291(a)(8)

34 U.S.C. 12291(a)(30)

# Exhibit 14

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**Policy 1662 - Anti-Harassment (Revised)**

**Policy 3362 - Anti-Harassment (Revised)**

**Policy 4362 - Anti-Harassment (Revised)**

**Policy 5517 - Anti-Harassment (Revised)**



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of ANTI-HARASSMENT
Code	po1662
Status	Work Session
Adopted	March 20, 2014
Last Revised	June 20, 2019

## 1662 - **ANTI-HARASSMENT**

### **General Policy Statement**

It is the policy of the Board of School Trustees to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment, occurring in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment (hereinafter referred to collectively as "unlawful harassment"). This commitment applies to all Corporation operations, employment opportunities, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment occurring in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct affects the Corporation environment.

The Board will vigorously enforce its prohibition against unlawful harassment (see definition above), which is based on race, color, national origin, sex, religion, disability, military status, ancestry, or genetic information that are classes protected by Federal and/or State civil rights laws (hereinafter referred to as "Protected Classes"), and encourages those within the Corporation community as well as third parties who feel aggrieved to seek assistance to rectify such problems occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment.

All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition above) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment that the employee observes or which is reported to the employee.

The Board will investigate all allegations of unlawful harassment (see definition on page 1) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment and, in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects.

Individuals who are found to have engaged in unlawful harassment (see definition on page 1) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment will be subject to appropriate disciplinary action, up to and including termination of employment or expulsion from school.

Furthermore, Corporation employees who fail to report any incident of alleged unlawful harassment (see definition on page 1) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation

grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment that the employee observes or which is reported to the employee also are subject to appropriate disciplinary action, up to and including termination of employment.

For purposes of this policy, "Corporation community" means students, administrators, teachers, and staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on Corporation property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the Corporation community at school-related events/activities (whether on or off Corporation property).

### **Other Violations of the Anti-Harassment Policy**

The Corporation also will take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment (see definition on page 1) or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment (see definition on page 1).
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment (see definition on page 1), when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

### **Definitions**

#### **Bullying**

Bullying rises to the level of unlawful harassment (see definition on page 1) when one (1) or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students with the intent to harass, ridicule, humiliate, intimidate or harm that/those student(s), and that bullying is based upon sex, race, color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. sexual violence;
- I. theft;
- J. sexual, religious, or racial harassment;
- K. public humiliation; or
- L. destruction of property.

In the bullying context, "harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student that:

- A. places a student in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

### **Sexual Harassment**

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. sexual violence, including physical and/or sexual assault;
- C. threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances;
- D. unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls;
- E. sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals;
- F. unwelcome and inappropriate touching, patting, or pinching; obscene gestures;
- G. a pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another;
- H. remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;
- I. in the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment;
- J. Inappropriate boundary invasions by a Corporation employee or other adult member of the Corporation community into a student's personal space and personal life;

- K. verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education or creates a hostile or abusive employment or educational environment.

**NOTE: Sexual conduct/relationships with students by a Corporation employee or any other adult member of the Corporation community is prohibited, and any teacher, administrator, coach, other school authority, or staff member who engages in certain sexual conduct with a student may be disciplined up to and including termination and also may be guilty of the criminal charge of "sexual battery" as set forth in I.C. 35-42-4-8. In the case of a child under fourteen (14) years of age, the person also may be guilty of "child molesting" under I.C. 35-42-4-3. In the case of a child between the ages of fourteen (14) and sixteen (16), the person also may be guilty of "sexual misconduct with a minor" under I.C. 35-42-4-9. The issue of consent is irrelevant in regard to the latter two (2) criminal charges. Any employee accused of sexual relations with a student may be placed on leave until school administrative proceedings are completed. Proven sexual relationships with a student regardless of the age of the student will initiate the termination process for the employee.**

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involving religious slurs.

### **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment also may include but is not limited to conduct directed at or pertaining to a person's genetic information.

### **Reports and Complaints of Harassing Conduct**

Students, members of the Corporation community and third parties are encouraged to promptly report incidents of unlawful harassment (see definition on page 1) to an administrator, supervisor or other School Corporation official so that the Corporation may address the conduct before it becomes severe, pervasive, or persistent. All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition on page 1) that the employee observes or which is reported to the employee. Any administrator, supervisor, or other Corporation-level official who receives such a complaint shall file it with the Corporation's Anti-Harassment Compliance Officer at his/her first convenience. Corporation employees who fail to comply with the reporting responsibility shall be subject to discipline, up to and including

termination.

Members of the Corporation community or third parties who believe they have been subjected to unlawful harassment (see definition on page 1) by another member of the School Corporation community or a third party are entitled to utilize the Board's complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. Individuals should make every effort to file a within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of a reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying, the principal or his/her designee believes that the reported misconduct may have created a hostile work or learning environment and may have constituted unlawful harassment (see definition on page 1) based "Protected Classes" (see definition on page 1), the principal or his/her designee will report the act of bullying and/or harassment to one of the Compliance Officers who shall investigate the allegation in accordance with this policy.

### **Anti-Harassment Compliance Officers**

The following individuals serve as "Anti-Harassment Compliance Officers" for the Corporation. They are hereinafter referred to as the "Compliance Officers".

Jonathan Mock  
Director of Human Resources & Compliance  
32 East 7th Street  
Hobart, IN 46342  
(219) 942-8885 Ext. 1  
[jmock@hobart.k12.in.us](mailto:jmock@hobart.k12.in.us) **Mr. Greg Bialata**  
**Student Safety Supervisor**  
**School City of Hobart**  
**36 East 8<sup>th</sup> Street**  
**Hobart, IN 46342**  
**(219) 942-8541**  
**[gbialata@hobart.k12.in.us](mailto:gbialata@hobart.k12.in.us)**  
**Mrs. Jamie Noel**  
**Coordinator of Student Health Services**  
**School City of Hobart**  
**36 East 8<sup>th</sup> Street**  
**Hobart, IN 46342**  
**(219) 942-8541**  
**[jnoel@hobart.k12.in.us](mailto:jnoel@hobart.k12.in.us)**

The names, titles, and contact information for the Compliance Officers will be published annually in the student, parent, and staff handbooks and on the School Corporation's web site.

The Compliance Officers will be available during regular school/work hours to discuss concerns related to "unlawful harassment" (see definition on page 1), to assist students, other members of the School Corporation community and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student.

Any Corporation employee who directly observes unlawful harassment (see definition on page 1) of a student is obligated, in accordance with this policy, to report such observations to one (1) of the Compliance Officers within two (2) business days. Thereafter, the Compliance Officer or designee must contact the student if age eighteen (18) or older, or the student's parents if under the age of eighteen (18) within two (2) business days to advise him/her/them of the Corporation's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or his/her designee to conduct an investigation following all the procedures outlined in this policy for a formal complaint. Additionally, if the alleged harasser is a student, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age of eighteen (18), within two (2) business days to advise him/her/them of the Corporation's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint. However, all complaints of harassment involving a Corporation employee or any other adult member of the Corporation community against a student will be formally investigated.

The Compliance Officers are assigned to accept complaints of unlawful harassment (see definition on page 1) directly from any member of the School Corporation community or a visitor to the Corporation, or to receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the member of the School Corporation community alleging harassment or the nature of the alleged harassment), or the Compliance Officer will designate a

specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. However, if the alleged harasser is the Superintendent, the recommendations shall be submitted to the Board President.

All Corporation employees must report incidents of unlawful harassment (see definition on page 1) that they observe or that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.

### **Investigation and Complaint Procedure (see Form 1662 F1)**

Any employee or other member of the Corporation community or third party (e.g., visitor to the Corporation) who believes that s/he has been subjected to unlawful harassment (see definition on page 1) may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of unlawful harassment (see definition on page 1) and a process for rendering a decision regarding whether the claim of unlawful harassment (see definition on page 1) was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment (see definition on page 1), time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and/or unlawful harassment (see definition on page 1) and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for an employee who believes s/he has been unlawfully harassed or retaliated against in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment. This informal procedure is not required as a precursor to the filing of a formal complaint and/or filing a concurrent criminal complaint, and will be used only where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.

Employees, other members of the Corporation community, or third parties who believe that they have been subjected to unlawful harassment (see definition on page 1) or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint procedure.

However, all complaints of unlawful harassment (see definition on page 1) involving a Corporation employee, any adult member of the Corporation community, or a third party against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed (see definition on page 1) and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officer(s) is/are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed (see definition on page 1) may make an informal complaint, either orally or in writing: 1) to a teacher, other employee, or building administrator; 2) directly to one (1) of the Compliance Officers; and/or 3) to the Superintendent or other Corporation-level employee.

All informal complaints must be reported to one of the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The Corporation's informal complaint procedure is designed to provide employees, other members of the Corporation community or third parties who believe they are being subjected to unlawful harassment (see definition on page 1) with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:



- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, one of the Compliance Officers or a designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint, may file a complaint with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), and/or may file a concurrent criminal complaint with the law enforcement agency having jurisdiction. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

One (1) of the Compliance Officers or a designee will retain all materials generated as part of the informal complaint process in accordance with the Board's records retention policy (see Policy 8310, Policy 8320, and Policy 8330).

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

The formal complaint process is not intended to interfere with the rights of an employee, other member of the Corporation community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), and/or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

An individual who believes s/he has been subjected to offensive conduct/harassment/retaliation hereinafter referred to as the "Complainant", may file a formal complaint, either orally or in writing with a teacher, principal, the Compliance Officer, Superintendent, or other Corporation-level employee. Due to the sensitivity surrounding complaints of unlawful harassment (see definition on page 1) and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, Superintendent, or other Corporation-level employee, either orally or in writing, about any complaint of harassment or retaliation, the employee to whom the complaint is reported must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints of unlawful harassment (see definition on page 1) or retaliation must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview and the Complainant will be asked to verify the accuracy of the reported complaint by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the Complainant to assess his/her agreement to any action deemed appropriate. If the Complainant is unwilling to consent any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deems appropriate in consultation with the Superintendent and/or Board Attorney.

Within two (2) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/unlawful harassment/retaliation.

Contemporaneously, one of the Compliance Officers or a designee will inform the individual alleged to have engaged in the unlawful harassing or retaliatory conduct, hereinafter referred to as the "Respondent", that a complaint has been received. The Respondent will be informed about the nature of the allegations and a copy of the Board's anti-harassment policy shall be provided to the Respondent. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, one of the Compliance Officers or a designee will attempt to complete an investigation into the allegations of harassment or retaliation within fifteen (15) business days of receiving the formal complaint.

The investigation will include:

- A. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations; and
- D. consideration of any documentation or other information, presented by the Complainant, Respondent, or any other witnesses that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment (see definition on page 1) or retaliation. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used (i.e., it is more likely than not that unlawful discrimination retaliation occurred).

Absent extenuating circumstances, within five (5) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a decision regarding whether the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's decision will be delivered to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a written decision as described above.

A Complainant or respondent who is dissatisfied with the decision of the Superintendent may appeal through a signed written request to the Board of School Trustees within five (5) business days of his/her receipt of the Superintendent's final decision.

If the Superintendent is the Respondent, the appeal process will skip the review by the Superintendent and move directly to the Board. In such circumstances, the Compliance Officer, or the designee, shall prepare and deliver a written report to the Board that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment (see definition on page 1) or retaliation.

The Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of a written request to appeal. At this meeting, the parties have the right to present evidence, including testimony and/or exhibits, to the Board in support of their position. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the Corporation community or third party alleging the unlawful harassment/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The Complainant and the Respondent may be represented, at his/her own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, Equal Employment Opportunity Commission, Indiana

Civil Rights Commission, or the filing of a concurrent criminal complaint. Use of the complaint procedures is not a prerequisite to the pursuit of other remedies. Furthermore, the complaint must be investigated even if a separate investigation is being conducted by another agency, including but not limited to the local police department.

### **Privacy/Confidentiality**

The Corporation will employ all reasonable efforts to protect the privacy of the Complainant, the Respondent(s) (that is the individual(s) against whom the complaint is filed), and the witnesses to the extent possible, consistent with the Corporation's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed.

All Complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the Respondent(s).

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the Corporation community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

### **Remedial Action, Sanctions, and Monitoring**

The Board shall vigorously enforce its prohibitions against unlawful harassment (see definition on page 1)/retaliation by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment.

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant. Such remedial action may include, but is not limited to, counseling services, reinstatement of leave taken due to the discrimination, or other appropriate action.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s), if any.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s), if any.

All subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects. Prior sanctions imposed on the Respondent(s) for similar past conduct shall be considered in determining the appropriateness of the sanction(s) imposed for the present conduct.

The Board may appoint an individual, who may be an employee of the Corporation, to monitor the Respondent to ensure no further discrimination or retaliation occurs. Likewise, the Board may appoint an individual, who may be an employee of the Corporation other than the Respondent, to follow up with the Complainant to ensure that no further discrimination or retaliation has occurred and to take action to promptly address any reported occurrences.

### **Retention of Public Records, Student Records, and Investigatory Records and Materials**

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including but not limited to complaints, responses, witness statements, documentary evidence, audio, video and/or digital recordings, handwritten and contemporaneous notes, e-mails related to the investigation and allegations, printouts, letters, determinations, and summaries. The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, Policy 8330 and the Corporation's records retention schedule.

### **Retaliation**

Any act of retaliation against a person who has made a report, filed a complaint alleging unlawful harassment, or participated as a witness in a harassment investigation is prohibited.

Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten, or interfere with any individual because the person opposed any act or practice of unlawful harassment (see definition on page 1), or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing pertaining to unlawful harassment, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Federal or State laws.

Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.

#### **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Child Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant or the alleged victim, a report of such knowledge must be made in accordance with State law and Board Policy.

If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined under State law, such knowledge should be reported to local law enforcement.

Any reports made to Child Protective Services or to local law enforcement shall not terminate the Compliance Officer's or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies.

#### **Education and Training**

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Compliance Officers will oversee the training of Corporation employees and students so that they understand their rights and responsibilities under Federal and State law and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law. All training regarding the Board's policy and administrative guidelines and harassment in general will be age and content appropriate.

#### **Notice**

Notice of the Board's policy on anti-harassment related to employment practices and the identity of the Compliance Officers will be posted throughout the Corporation, and published in any Corporation statement regarding the availability of employment, in any staff handbooks, and in general information publications of the Corporation as required by Federal and State law and this policy.

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## Legal

I.C. 35-42-4-3, 35-42-4-8, 35-42-4-9

20 U.S.C. 1400 et seq., the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)

20 U.S.C. 1681 et seq., Title IX of the Educational Amendments Act of 1972

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973, as amended

42 U.S.C. 1983

42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964

42 U.S.C. 2000e et seq., Title VII of the Civil Rights Act of 1964

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

29 C.F.R. Part 1635

National School Boards Association Inquiry and Analysis - May 2008



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### 3362 - **ANTI-HARASSMENT**

#### **General Policy Statement**

It is the policy of the Board of School Trustees to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment, occurring in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment (hereinafter referred to collectively as "unlawful harassment"). This commitment applies to all School Corporation operations, employment opportunities, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment occurring in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct affects the Corporation environment.

The Board will vigorously enforce its prohibition against unlawful harassment (see definition above), which is based on race, color, national origin, sex, religion, disability, military status, ancestry, or genetic information that are classes protected by Federal and/or State civil rights laws (hereinafter referred to as "Protected Classes"), and encourages those within the School Corporation community as well as third parties who feel aggrieved to seek assistance to rectify such problems occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment.

All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition above) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment that the employee observes or which is reported to the employee.

The Board will investigate all allegations of unlawful harassment (see definition on page 1) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment and, in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects.

Individuals who are found to have engaged in unlawful harassment (see definition on page 1) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment will be subject to appropriate disciplinary action, up to and including termination of employment or expulsion from school.

Furthermore, Corporation employees who fail to report any incident of alleged unlawful harassment (see definition on page 1) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation

grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment that the employee observes or which is reported to the employee also are subject to appropriate disciplinary action, up to and including termination of employment.

The Corporation may offer counseling services to any person found to have been subjected to unlawful harassment, and where appropriate, the person(s) who committed the unlawful harassment.

For purposes of this policy, "Corporation community" means students, administrators, teachers, and staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on Corporation property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the Corporation community at school-related events/activities (whether on or off Corporation property).

### **Other Violations of the Anti-Harassment Policy**

The Corporation also will take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment (see definition on page 1) or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment (see definition on page 1).
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment (see definition on page 1), when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

### **Definitions**

#### **Bullying**

Bullying rises to the level of unlawful harassment (see definition on page 1) when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students with the intent to harass, ridicule, humiliate, intimidate or harm that/those student(s), and that bullying is based upon sex, race, color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. sexual violence;
- I. theft;
- J. sexual, religious, or racial harassment;
- K. public humiliation; or

L. destruction of property.

In the bullying context, "harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student that:

- A. places a student in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

### **Sexual Harassment**

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. sexual violence, including physical and/or sexual assault;
- C. threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances;
- D. unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls;
- E. sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals;
- F. unwelcome and inappropriate touching, patting, or pinching; obscene gestures;
- G. a pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another;
- H. remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;
- I. in the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment;



- J. inappropriate boundary invasions by a Corporation employee or other adult member of the Corporation community into a student's personal space and personal life;
- K. verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education, or creates a hostile or abusive employment or educational environment.

**NOTE: Sexual conduct/relationships with students by Corporation employee or any other adult member of the Corporation community is prohibited, and any teacher, administrator, coach, other school authority, or staff member who engages in certain sexual conduct with a student may be disciplined up to and including termination and also may be guilty of the criminal charge of "sexual battery" as set forth in I.C. 35-42-4-8. In the case of a child under fourteen (14) years of age, the person also may be guilty of "child molesting" under I.C. 35-42-4-3. In the case of a child between the ages of fourteen (14) and sixteen (16), the person also may be guilty of "sexual misconduct with a minor" under I.C. 35-42-4-9. The issue of consent is irrelevant in regard to the latter two (2) criminal charges. Any employee accused of sexual relations with a student may be placed on leave until school administrative proceedings are completed. Proven sexual relationships with a student regardless of the age of the student will initiate the termination process for the employee.**

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involving religious slurs.

### **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment also may include but is not limited to conduct directed at or pertaining to a person's genetic information.

### **Reports and Complaints of Harassing Conduct**

Students, members of the Corporation community and third parties are encouraged to promptly report incidents of unlawful harassment (see definition on page 1) to an administrator, supervisor or other Corporation official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition on page 1) that the employee

observes or which is reported to the employee. Any administrator, supervisor, or other Corporation-level official who receives such a complaint shall file it with the Corporation's Anti-Harassment Compliance Officer at his/her first convenience. Corporation employees who fail to comply with the reporting responsibility shall be subject to discipline, up to and including termination.

Members of the Corporation community or third parties who believe they have been subjected to unlawful harassment (see definition on page 1) by another member of the Corporation community or a third party are entitled to utilize the Board's complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. Individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of a reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying, the principal or his/her designee believes that the reported misconduct may have created a hostile work or learning environment and may have constituted unlawful harassment (see definitions on page 1) based on "Protected Classes" (see definition on page 1), the principal or his/her designee will report the act of bullying and/or harassment to one (1) of the Compliance Officers who shall investigate the allegation in accordance with this policy.

### **Anti-Harassment Compliance Officers**

The following individuals serve as "Anti-Harassment Compliance Officers" for the Corporation. They are hereinafter referred to as the "Compliance Officers".

[Jonathan Mock](#)  
[Director of Human Resources & Compliance](#)  
[32 East 7th Street](#)  
[Hobart, IN 46342](#)  
[\(219\) 942-8885 Ext. 1](#)  
[jmock@hobart.k12.in.us](mailto:jmock@hobart.k12.in.us)

~~Mr. Greg Bialata~~  
~~Student Safety Supervisor~~  
~~School City of Hobart~~  
~~36 East 8<sup>th</sup> Street~~  
~~Hobart, IN 46342~~  
~~(219) 942-8541~~  
~~[gbialata@hobart.k12.in.us](mailto:gbialata@hobart.k12.in.us)~~

~~Mrs. Jamie Noel~~  
~~Coordinator of Student Health Services~~  
~~School City of Hobart~~  
~~36 East 8<sup>th</sup> Street~~  
~~Hobart, IN 46342~~  
~~(219) 942-8541~~  
~~[jnoel@hobart.k12.in.us](mailto:jnoel@hobart.k12.in.us)~~

The names, titles, and contact information for the Compliance Officers will be published annually in the student, parent and staff handbooks and on the School Corporation's web site.

A Compliance Officer will be available during regular school/work hours to discuss concerns related to "unlawful harassment" (see definition on page 1), to assist students, other members of the Corporation community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student.

Any Corporation employee who directly observes unlawful harassment (see definition on page 1) of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within two (2) business days. Thereafter, the Compliance Officer or designee must contact the student if age eighteen (18) or older, or the student's parents if under the age of eighteen (18) within two (2) business days to advise him/her/them of the Corporation's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or his/her designee to conduct an investigation following all the procedures outlined in this policy for a formal complaint. Additionally, if the alleged harasser is a student, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age of eighteen (18), within two (2) business days to advise him/her/them of the Corporation's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint. However, all complaints of harassment involving a Corporation employee or any other adult member of the Corporation community against a student will be formally investigated.

The Compliance Officers are assigned to accept complaints of unlawful harassment (see definition on page 1) directly from any member of the School Corporation community or a visitor to the Corporation, or to receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the member of the School

Corporation community alleging harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. However, if the alleged harasser is the Superintendent, the recommendations shall be submitted to the Board President.

All Corporation employees must report incidents of unlawful harassment (see definition on page 1) that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.

### **Investigation and Complaint Procedure (see Form 3362 F1)**

Any employee or other member of the Corporation community or third party (e.g., visitor to the Corporation) who believes that s/he has been subjected to unlawful harassment (see definition on page 1) may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of unlawful harassment (see definition on page 1) and a process for rendering a decision regarding whether the claim of unlawful harassment (see definition on page 1) was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment (see definition on page 1), time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and/or unlawful harassment (see definition on page 1), and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for an employee who believes s/he has been unlawfully harassed or retaliated against in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment. This informal procedure is not required as a precursor to the filing of a formal complaint and/or filing a concurrent criminal complaint, and will be utilized only where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.

Employees, other members of the Corporation community, or third parties who believe that they have been subjected to unlawful harassment (see definition on page 1) or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint procedure.

However, all complaints of unlawful harassment (see definition on page 1) involving a Corporation employee, any adult member of the Corporation community, or a third party against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed (see definition on page 1) and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officer(s) is/are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed (see definition on page 1) may make an informal complaint, either orally or in writing: 1) to a teacher, other employee, or building administrator; 2) directly to one of the Compliance Officers; and/or 3) to the Superintendent or other Corporation-level employee.

All informal complaints must be reported to one of the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The Corporation's informal complaint procedure is designed to provide employees, other members of the Corporation community or third parties who believe they are being subjected to unlawful harassment (see definition on page 1) with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the

individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officers may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, one of the Compliance Officers or a designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint, may file a complaint with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), and/or may file a concurrent criminal complaint with the law enforcement agency having jurisdiction. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

One of the Compliance Officers or a designee will retain all materials generated as part of the informal complaint process in accordance with the Board's records retention policy (see Policy 8310, Policy 8320 and Policy 8330.).

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

The formal complaint process is not intended to interfere with the rights of an employee, other member of the Corporation community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), and/or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

An individual who believes s/he has been subjected to offensive conduct/unlawful harassment/retaliation hereinafter referred to as the "Complainant", may file a formal complaint, either orally or in writing with a teacher, principal, the Compliance Officer, Superintendent, or other Corporation-level employee. Due to the sensitivity surrounding complaints of unlawful harassment (see definition on page 1) and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, Superintendent, or other Corporation-level employee, either orally or in writing, about any complaint of harassment or retaliation, the employee to whom the complaint is reported must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints of unlawful harassment (see definition on page 1) or retaliation must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview and the Complainant will be asked to verify the accuracy of the reported complaint by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the Complainant to assess his/her agreement to any action deemed appropriate. If the Complainant is unwilling to consent any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deems appropriate in consultation with the Superintendent and/or Board Attorney.

Within two (2) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation

to determine whether the Complainant has been subjected to offensive conduct/unlawful harassment/retaliation.

Contemporaneously, one of the Compliance Officers or a designee will inform the individual alleged to have engaged in the unlawful harassing or retaliatory conduct, hereinafter referred to as the "Respondent", that a complaint has been received. The Respondent will be informed about the nature of the allegations and a copy of the Board's anti-harassment policy shall be provided to the Respondent. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, one of the Compliance Officers or a designee will attempt to complete an investigation into the allegations of harassment or retaliation within fifteen (15) business days of receiving the formal complaint.

The investigation will include:

- A. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations; and
- D. consideration of any documentation or other information, presented by the Complainant, Respondent, or any other witnesses that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment or retaliation. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used (i.e., it is more likely than not that unlawful discrimination retaliation occurred).

Absent extenuating circumstances, within five (5) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a decision regarding whether the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's decision will be delivered to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a written decision as described above.

A Complainant or respondent who is dissatisfied with the decision of the Superintendent may appeal through a signed written request to the Board of School Trustees within five (5) business days of his/her receipt of the Superintendent's final decision.

If the Superintendent is the Respondent, the appeal process will skip the review by the Superintendent and move directly to the Board. In such circumstances, the Compliance Officer, or the designee, shall prepare and deliver a written report to the Board that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment (see definition on page 1) or retaliation.

The Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of a written request to appeal. At this meeting, the parties have the right to present evidence, including testimony and/or exhibits, to the Board in support of their position. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the School Corporation community or third party alleging the unlawful harassment/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The Complainant and the Respondent may be represented, at his/her own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other

remedies such as the filing of a complaint with the Office for Civil Rights, Equal Employment Opportunity Commission, Indiana Civil Rights Commission, or the filing of a concurrent criminal complaint. Use of the complaint procedures is not a prerequisite to the pursuit of other remedies. Furthermore, the complaint must be investigated even if a separate investigation is being conducted by another agency, including but not limited to the local police department.

### **Privacy/Confidentiality**

The Corporation will employ all reasonable efforts to protect the privacy of the Complainant, the Respondent(s) (that is the individual(s) against whom the complaint is filed), and the witnesses to the extent possible, consistent with the Corporation's legal obligations to investigate, to take appropriate action, and comply with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed.

All Complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the Respondent(s).

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the Corporation community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

### **Remedial Actions, Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against unlawful harassment (see definition on page 1) or retaliation by taking appropriate action reasonable calculated to stop the harassment and prevent further such harassment.

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant. Such remedial action may include, but is not limited to, counseling services, reinstatement of leave taken due to the discrimination, or other appropriate action.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s), if any.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s), if any.

All subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects. Prior sanctions imposed on the Respondent(s) for similar past conduct shall be considered in determining the appropriateness of the sanction(s) imposed for the present conduct.

The Board may appoint an individual, who may be an employee of the Corporation, to monitor the Respondent to ensure no further discrimination or retaliation occurs. Likewise, the Board may appoint an individual, who may be an employee of the Corporation other than the Respondent, to follow up with the Complainant to ensure that no further discrimination or retaliation has occurred and to take action to promptly address any reported occurrences.

### **Retention of Public Records, Student Records, and Investigatory Records and Materials**

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including but not limited to complaints, responses, witness statements, documentary evidence, audio, video and/or digital recordings, handwritten and contemporaneous notes, e-mails related to the investigation and allegations, printouts, letters, determinations, and summaries. The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, Policy 8330 and the Corporation's records retention schedule.

### **Retaliation**

Any act of retaliation against a person who has made a report, filed a complaint alleging unlawful harassment, or participated as

a witness in a harassment investigation is prohibited.

Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten, or interfere with any individual because the person opposed any act or practice of unlawful harassment (see definition on page 1), or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing pertaining to unlawful harassment, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Federal or State laws.

Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.

#### **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Child Services, Office of Child Protective Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant or the alleged victim, a report of such knowledge must be made in accordance with State law and Board Policy.

If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined under State law, such knowledge should be reported to local law enforcement.

Any reports made to Child Protective Services or to local law enforcement shall not terminate the Compliance Officer's or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies.

#### **Education and Training**

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Compliance Officers will oversee training of Corporation employees and students so that they understand their rights and responsibilities under Federal and State law and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law. All training regarding the Board's policy and administrative guidelines and harassment in general will be age and content appropriate.

#### **Notice**

Notice of the Board's policy on anti-harassment related to employment practices and the identity of the Compliance Officers will be posted throughout the Corporation, and published in any Corporation statement regarding the availability of employment, in any staff handbooks, and in general information publications of the Corporation as required by Federal and State law and this policy.

Revised 3/20/14  
Revised 5/5/16  
Revised 7/19/18

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## Legal

I.C. 35-42-4-3, 35-42-4-8, 35-42-4-9

20 U.S.C. 1400 et seq., the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)

20 U.S.C. 1681 et seq., Title IX of the Education Amendments Act of 1972

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973, as amended

42 U.S.C. 1983

42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964

42 U.S.C. 2000e et seq., Title VII of the Civil Rights Act of 1964

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

29 C.F.R. Part 1635

National School Boards Association Inquiry and Analysis - May 2008





Book	Policy Manual
Section	Policies for the Board - 33-1
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#### 4362 - **ANTI-HARASSMENT**

##### **General Policy Statement**

It is the policy of the Board of School Trustees to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment, occurring in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment (hereinafter referred to collectively as "unlawful harassment"). This commitment applies to all School Corporation operations, employment opportunities, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment occurring in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment. This policy applies to unlawful conduct occurring on school property, or at another location if such affects the Corporation environment.

The Board will vigorously enforce its prohibition against unlawful harassment (see definition above), which is based on race, color, national origin, sex, religion, disability, military status, ancestry, or genetic information that are classes protected by Federal and/or State civil rights laws (hereinafter referred to as "Protected Classes"), and encourages those within the Corporation community as well as third parties who feel aggrieved to seek assistance to rectify such problems occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment.

All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition above) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment that the employee observes or which is reported to the employee.

The Board will investigate all allegations of unlawful harassment (see definition on page 1) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment and, in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects.

Individuals who are found to have engaged in unlawful harassment (see definition on page 1) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment will be subject to appropriate disciplinary action, up to and including termination of employment or expulsion from school.

Furthermore, Corporation employees who fail to report any incident of alleged unlawful harassment (see definition on page 1) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation

grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment that the employee observes or which is reported to the employee also are subject to appropriate disciplinary action, up to and including termination of employment.

The Corporation may offer counseling services to any person found to have been subjected to unlawful harassment, and where appropriate, the person(s) who committed the unlawful harassment.

For purposes of this policy, "Corporation community" means students, administrators, teachers, and staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on Corporation property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the Corporation community at school-related events/activities (whether on or off Corporation property).

### **Other Violations of the Anti-Harassment Policy**

The Corporation also will take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment (see definition on page 1) or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment (see definition on page 1).
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment (see definition on page 1), when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

### **Definitions**

#### **Bullying**

Bullying rises to the level of unlawful harassment (see definition on page 1) when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students with the intent to harass, ridicule, humiliate, intimidate or harm that/those student(s), and that bullying is based upon sex, race, color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. sexual violence;
- I. theft;
- J. sexual, religious, or racial harassment;
- K. public humiliation; or

- L. destruction of property.

In the bullying context, "harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student that:

- A. places a student in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

### **Sexual Harassment**

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. sexual violence, including physical and/or sexual assault;
- C. threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances;
- D. unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls;
- E. sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals;
- F. unwelcome and inappropriate touching, patting, or pinching; obscene gestures;
- G. a pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another;
- H. remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;
- I. in the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment;

- J. inappropriate boundary invasions by a Corporation employee or other adult member of the Corporation community into a student's personal space and personal life;
- K. verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education, or creates a hostile or abusive employment or educational environment.

**NOTE: Sexual conduct/relationships with students by Corporation employee or any other adult member of the Corporation community is prohibited, and any teacher, administrator, coach or other school authority, or staff member who engages in certain sexual conduct with a student may be disciplined up to and including termination and also may be guilty of the criminal charge of "sexual battery" as set forth in I.C. 35-42-4-8. In the case of a child under fourteen (14) years of age, the person also may be guilty of "child molesting" under I.C. 35-42-4-3. In the case of a child between the ages of fourteen (14) and sixteen (16), the person also may be guilty of "sexual misconduct with a minor" under I.C. 35-42-4-9. The issue of consent is irrelevant in regard to the latter two (2) criminal charges. Any employee accused of sexual relations with a student may be placed on leave until school administrative proceedings are completed. Proven sexual relationships with a student regardless of the age of the student will initiate the termination process for the employee.**

#### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

#### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involving religious slurs.

#### **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

#### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment also may include but is not limited to conduct directed at or pertaining to a person's genetic information.

#### **Reports and Complaints of Harassing Conduct**

Students, members of the Corporation community and third parties are encouraged to promptly report incidents of unlawful harassment (see definition on page 1) to an administrator, supervisor or other School Corporation official so that the Corporation may address the conduct before it becomes severe, pervasive, or persistent. All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition on page 1) that the

employee observes or which is reported to the employee. Any administrator, supervisor, or other Corporation-level official who receives such a complaint shall file it with the Corporation's Anti-Harassment Compliance Officer at his/her first convenience. Corporation employees who fail to comply with the reporting responsibility shall be subject to discipline, up to and including termination.

Members of the Corporation community or third parties who believe they have been subjected to unlawful harassment (see definition on page 1) by another member of the Corporation community or a third party are entitled to utilize the Board's complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. Individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of a reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying, the principal or his/her designee believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful harassment (see definition on page 1) based on "Protected Classes" (see definition on page 1), the principal or his/her designee will report the act of bullying and/or harassment to one (1) of the Compliance Officers who shall investigate the allegation in accordance with this policy.

### **Anti-Harassment Compliance Officers**

The following individuals serve as "Anti-Harassment Compliance Officers" for the Corporation. They are hereinafter referred to as the "Compliance Officers".

Jonathan Mock  
Director of Human Resources & Compliance  
32 East 7th Street  
Hobart, IN 46342  
(219) 942-8885 Ext. 1  
[jmock@hobart.k12.in.us](mailto:jmock@hobart.k12.in.us)

**Mr. Greg Bialata**  
**Student Safety Supervisor**  
**School City of Hobart**  
**36 East 8<sup>th</sup> Street**  
**Hobart, IN 46342**  
**(219) 942-8541**  
**[gbialata@hobart.k12.in.us](mailto:gbialata@hobart.k12.in.us)**

**Mrs. Jamie Noel**  
**Coordinator of Student Health Services**  
**School City of Hobart**  
**36 East 8<sup>th</sup> Street**  
**Hobart, IN 46342**  
**(219) 942-8541**  
**[jnoel@hobart.k12.in.us](mailto:jnoel@hobart.k12.in.us)**

The names, titles, and contact information for the Compliance Officers will be published annually in the student, parent and staff handbooks and on the School Corporation's web site.

The Compliance Officers will be available during regular school/work hours to discuss concerns related to "unlawful harassment" (see definition on page 1), to assist students, other members of the Corporation community and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student.

Any Corporation employee who directly observes unlawful harassment (see definition on page 1) of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within two (2) business days. Thereafter, the Compliance Officer or designee must contact the student if age eighteen (18) or older, or the student's parents if under the age of eighteen (18) within two (2) business days to advise him/her/them of the Corporation's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined in this policy for a formal complaint. Additionally, if the alleged harasser is a student, the Compliance Officer or his/her designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age of eighteen (18), within two (2) business days to advise him/her/them of the Corporation's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint. However, all complaints of harassment involving a Corporation employee or any other adult member of the Corporation community against a student will be formally investigated.

The Compliance Officers are assigned to accept complaints of unlawful harassment (see definition on page 1) directly from any member of the School Corporation community or a visitor to the Corporation, or to receive complaints that are initially filed with

a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the member of the School Corporation community alleging harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. However, if the alleged harasser is the Superintendent, the recommendations shall be submitted to the Board President.

All Corporation employees must report incidents of harassment that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.

### **Investigation and Complaint Procedure (see Form 4362 F1)**

Any employee or other member of the Corporation community or third party (e.g., visitor to the Corporation) who believes that s/he has been subjected to unlawful harassment (see definition on page 1) may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of harassment (see definition on page 1) and a process for rendering a decision regarding whether the claim of unlawful harassment (see definition on page 1) was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment (see definition on page 1), time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and/or unlawful harassment (see definition on page 1) and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for an employee who believes s/he has been unlawfully harassed or retaliated against in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment. This informal procedure is not required as a precursor to the filing of a formal complaint and/or filing a concurrent criminal complaint, and will be utilized only where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.

Employees, other members of the Corporation community, or third parties who believe that they have been subjected to unlawful harassment (see definition on page 1) or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint procedure.

However, all complaints of unlawful harassment (see definition on page 1) involving a Corporation employee, any adult member of the Corporation community, or a third party against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed (see definition on page 1) and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officer(s) is/are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed (see definition on page 1) may make an informal complaint, either orally or in writing: 1) to a teacher, other employee, or building administrator; 2) directly to one of the Compliance Officers; and/or 3) to the Superintendent or other Corporation-level employee.

All informal complaints must be reported to one (1) of the Compliance Officers, who will either facilitate an informal resolution as described below on his/her own or appoint another individual to facilitate an informal resolution.

The Corporation's informal complaint procedure is designed to provide employees, other members of the Corporation community

or third parties who believe they are being subjected to unlawful harassment (see definition on page 1) with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, one of the Compliance Officers or a designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint, may file a complaint with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), and/or may file a concurrent criminal complaint with the law enforcement agency having jurisdiction. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

One (1) of the Compliance Officers or a designee will retain all materials generated as part of the informal complaint process in accordance with the Board's records retention policy (see Policy 8310, Policy 8320 and Policy 8330).

#### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one (1) of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

The formal complaint process is not intended to interfere with the rights of an employee, other members of the Corporation community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), and/or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

An individual who believes s/he has been subjected to offensive conduct/unlawful harassment/retaliation hereinafter referred to as the "Complainant", may file a formal complaint, either orally or in writing with a teacher, principal, the Compliance Officer, Superintendent, or other Corporation-level employee. Due to the sensitivity surrounding complaints of unlawful harassment (see definition on page 1) and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, Superintendent, or other Corporation-level employee, either orally or in writing, about any complaint of harassment or retaliation, the employee to whom the complaint is reported must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints of unlawful harassment (see definition on page 1) or retaliation must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview and the Complainant will be asked to verify the accuracy of the reported complaint by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the Complainant to assess his/her agreement to any action deemed appropriate. If the Complainant is unwilling to consent any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deems appropriate in consultation with the Superintendent and/or Board Attorney.

Within two (2) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/unlawful harassment/retaliation.

Contemporaneously, one (1) of the Compliance Officers or a designee will inform the individual alleged to have engaged in the unlawful harassing or retaliatory conduct, hereinafter referred to as the "Respondent", that a complaint has been received. The Respondent will be informed about the nature of the allegations and a copy of the Board's anti-harassment policy shall be provided to the Respondent. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, one (1) of the Compliance Officers or a designee will attempt to complete an investigation into the allegations of harassment or retaliation within fifteen (15) business days of receiving the formal complaint.

The investigation will include:

- A. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. Interview(s) with any other witnesses who may reasonably be expected to have any information relevant to the allegations; and
- D. consideration of any documentation or other information, presented by the Complainant, Respondent, or any other witnesses that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment (see definition on page 1) or retaliation. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used (i.e., it is more likely than not that unlawful discrimination retaliation occurred).

Absent extenuating circumstances, within five (5) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a decision regarding whether the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's decision will be delivered to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a written decision as described above.

A Complainant or respondent who is dissatisfied with the decision of the Superintendent may appeal through a signed written request to the Board of School Trustees within five (5) business days of his/her receipt of the Superintendent's final decision.

If the Superintendent is the Respondent, the appeal process will skip the review by the Superintendent and move directly to the Board. In such circumstances, the Compliance Officer, or the designee, shall prepare and deliver a written report to the Board that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment (see definition on page 1) or retaliation.

The Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of a written request to appeal. At this meeting, the parties have the right to present evidence, including testimony and/or exhibits, to the Board in support of their position. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the Corporation community or third party alleging the unlawful harassment/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The Complainant and the Respondent may be represented, at his/her own cost, at any of the above-described meetings/hearings.



The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, Equal Employment Opportunity Commission, Indiana Civil Rights Commission, or the filing of a concurrent criminal complaint. Use of the complaint procedures is not a prerequisite to the pursuit of other remedies. Furthermore, the complaint must be investigated even if a separate investigation is being conducted by another agency, including but not limited to the local police department.

### **Privacy/Confidentiality**

The Corporation will employ all reasonable efforts to protect the privacy of the Complainant, the Respondent(s) (that is the individual(s) against whom the complaint is filed), and the witnesses to the extent possible, consistent with the Corporation's legal obligations to investigate, to take appropriate action, and comply with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed.

All Complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the Respondent(s).

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the Corporation community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

### **Remedial Actions, Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against unlawful harassment (see definition on page 1)/retaliation by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment.

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant. Such remedial action may include, but is not limited to, counseling services, reinstatement of leave taken due to the discrimination, or other appropriate action.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s), if any.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s), if any.

All subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects. Prior sanctions imposed on the Respondent(s) for similar past conduct shall be considered in determining the appropriateness of the sanction(s) imposed for the present conduct.

The Board may appoint an individual, who may be an employee of the Corporation, to monitor the Respondent to ensure no further discrimination or retaliation occurs. Likewise, the Board may appoint an individual, who may be an employee of the Corporation other than the Respondent, to follow up with the Complainant to ensure that no further discrimination or retaliation has occurred and to take action to promptly address any reported occurrences.

### **Retention of Public Records, Student Records, and Investigatory Records and Materials**

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including but not limited to complaints, responses, witness statements, documentary evidence, audio, video and/or digital recordings, handwritten and contemporaneous notes, e-mails related to the investigation and allegations, printouts, letters, determinations, and summaries. The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, Policy 8330 and the Corporation's records retention schedule.

### **Retaliation**

Any act of retaliation against a person who has made a report, filed a complaint alleging unlawful harassment, or participated as a witness in a harassment investigation is prohibited.

Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten, or interfere with any individual because the person opposed any act or practice of unlawful harassment (see definition on page 1), or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing pertaining to unlawful harassment, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Federal or State laws.

Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.

### **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Child Services, Office of Child Protective Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant or the alleged victim, a report of such knowledge must be made in accordance with State law and Board Policy.

If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined under State law, such knowledge should be reported to local law enforcement.

Any reports made to Child Protective Services or to local law enforcement shall not terminate the Compliance Officer's or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies.

### **Education and Training**

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Compliance Officers will oversee training of Corporation employees and students so that they understand their rights and responsibilities under Federal and State law and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law. All training regarding the Board's policy and administrative guidelines and harassment in general will be age and content appropriate.

### **Notice**

Notice of the Board's policy on anti-harassment related to employment practices and the identity of the Compliance Officers will be posted throughout the Corporation, and published in any Corporation statement regarding the availability of employment, in any staff handbooks, and in general information publications of the Corporation as required by Federal and State law and this policy.

Revised 3/20/14

Revised 5/5/16

Revised 7/19/18

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## Legal

I.C. 35-42-4-3, 35-42-4-8, 35-42-4-9

20 U.S.C. 1400 et seq., the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)

20 U.S.C. 1681 et seq., Title IX of the Education Amendments Act of 1972

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973, as amended

42 U.S.C. 1983

42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964

42 U.S.C. 2000e et seq., Title VII of the Civil Rights Act of 1964

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

29 C.F.R. Part 1635

National School Boards Association Inquiry and Analysis - May 2008



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#### 5517 - **ANTI-HARASSMENT**

##### **General Policy Statement**

It is the policy of the Board of School Trustees to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment, occurring in the Corporation's educational opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs, and activities, affecting the Corporation environment (hereinafter referred to collectively as "unlawful harassment"). This commitment applies to all Corporation operations, educational opportunities, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment occurring in the Corporation's educational opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs, and activities, affecting the Corporation environment. This policy applies to unlawful conduct occurring on school property, or at another location if such affects the Corporation environment.

The Board will vigorously enforce its prohibition against unlawful harassment (see definition on page 1), that is based on race, color, national origin, sex, religion, disability, military status, ancestry, or genetic information, which are classes protected by Federal and/or State civil rights laws (hereinafter referred to as "Protected Classes"), and encourages those within the Corporation community as well as third parties who feel aggrieved to seek assistance to rectify such problems occurring in the Corporation's educational opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs and activities, affecting the Corporation environment.

All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition on page 1) that the employee observes or which is reported to the employee.

The Corporation will investigate all allegations of unlawful harassment (see definition on page 1) and, in those cases where unlawful harassment is substantiated, will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects.

Individuals who are found to have engaged in unlawful harassment (see definition on page 1) will be subject to appropriate disciplinary action, up to and including termination of employment or expulsion from school.

Furthermore, Corporation employees who fail to report any incident of alleged unlawful harassment (see definition on page 1) that the employee observes or which is reported to the employee also are subject to appropriate disciplinary action, up to and including termination of employment.

For purposes of this policy, "Corporation community" means students, administrators, teachers, and staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on Corporation property (e.g.,

visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the Corporation community at school-related events/activities (whether on or off Corporation property).

### **Other Violations of the Anti-Harassment Policy**

The Corporation also will take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment (see definition on page 1) or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment (see definition on page 1).
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment (see definition on page 1), when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

### **Definitions**

#### **Bullying**

Bullying rises to the level of unlawful harassment (see definition on page 1) when one (1) or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students with the intent to harass, ridicule, humiliate, intimidate or harm that/those student(s), and that bullying is based upon sex, race, color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. sexual violence;
- I. theft;
- J. sexual, religious, or racial harassment;
- K. public humiliation; or
- L. destruction of property.

In the bullying context, "harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student that:

- A. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or

C. has the effect of substantially disrupting the orderly operation of a school.

### **Sexual Harassment**

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's status in a class, educational program, or activity;
- B. Submission or rejection of such conduct by an individual is used as the basis for educational decisions affecting such individual;
- C. Such conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. sexual violence, including physical and/or sexual assault;
- C. threats or insinuations that a person's academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of education may be adversely affected by not submitting to sexual advances;
- D. unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls;
- E. sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the educational environment, which may embarrass or offend individuals;
- F. unwelcome and inappropriate touching, patting, or pinching; obscene gestures;
- G. a pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another;
- H. remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;
- I. inappropriate boundary invasions by a Corporation employee or other adult member of the Corporation community into a student's personal space and personal life;
- J. verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature;
- K. in the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education or creates a hostile or abusive employment or educational environment.

**NOTE: Sexual conduct/relationships with students by Corporation employee or any other adult member of the School Corporation community is prohibited, and any teacher, administrator, coach, other school authority, or staff member who engages in certain sexual conduct with a student may be disciplined up to and including termination and also may be guilty of the criminal charge of "sexual battery" as set forth in I.C. 35-42-4-8. In the case of a child under fourteen (14) years of age, the person also may be guilty of "child molesting" under I.C. 35-42-4-3. In the case of a child between the ages of fourteen (14) and sixteen (16), the person also may be guilty of "sexual misconduct with a minor" under I.C. 35-42-4-9. The issue of consent is irrelevant in regard to the latter two (2) criminal charges. Any employee accused of sexual relations with a student may be placed on leave until school administrative proceedings are completed. Proven sexual relationships with a student regardless of the age of the student will initiate the termination process for the employee.**

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involving religious slurs.

### **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like.

### **Reports and Complaints of Harassing Conduct**

Students, members of the Corporation community and third parties are encouraged to promptly report incidents of unlawful harassment (see definition on page 1) to an administrator, supervisor or other Corporation official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. All Corporation-level employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition on page 1) that the employee observes or which is reported to the employee. Any administrator or other Corporation-level official who receives such a complaint shall file it with the Corporation's Anti-Harassment Compliance Officer at his/her first convenience. Corporation employees who fail to comply with the reporting responsibility shall be subject to discipline, up to and including termination.

Members of the Corporation community or third parties who believe they have been subjected to unlawful harassment (see definition on page 1) by another member of the Corporation community or a third party are entitled to utilize the Board's complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. Individuals should make every effort to file a within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of a reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying, the principal or his/her designee believes that the reported misconduct may have created a hostile work or learning environment and

may have constituted unlawful harassment (see definition on page 1) based on "Protected Classes" (see definition on page 1), the principal or his/her designee will report the act of bullying and/or harassment to one (1) of the Compliance Officers who shall investigate the allegation in accordance with this policy.

### **Anti-Harassment Compliance Officers**

The following individuals serve as "Anti-Harassment Compliance Officers" for the Corporation. They are hereinafter referred to as the "Compliance Officers".

Jonathan Mock  
Director of Human Resources & Compliance  
32 East 7th Street  
Hobart, IN 46342  
(219) 942-8885 Ext. 1  
jmock@hobart.k12.in.us

Mr. Greg Bialata  
Student Safety Supervisor  
School City of Hobart  
36 East 8<sup>th</sup> Street  
Hobart, IN 46342  
(219) 942-8541  
gbialata@hobart.k12.in.us

Mrs. Jamie Noel  
Coordinator of Student Health Services  
School City of Hobart  
36 East 8<sup>th</sup> Street  
Hobart, IN 46342  
(219) 942-8541  
jnoel@hobart.k12.in.us

The names, titles, and contact information for the Compliance Officers will be published annually in the student, parent and staff handbooks and on the School Corporation's web site.

The Compliance Officers will be available during regular school/work hours to discuss concerns related to "unlawful harassment" (see definition on page 1), to assist students, other members of the Corporation community and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student.

Any Corporation employee who directly observes unlawful harassment (see definition on page 1) of a student is obligated, in accordance with this policy, to report such observations to one (1) of the Compliance Officers within two (2) business days. Thereafter, the Compliance Officer or designee must contact the student if age eighteen (18) or older, or the student's parents if under the age of eighteen (18) within two (2) business days to advise him/her/them of the Corporation's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined in this policy for a formal complaint. Additionally, if the alleged harasser is a student, the Compliance Officer or his/her designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age of eighteen (18), within two (2) business days to advise him/her/them of the Corporation's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint. However, all complaints of harassment involving a Corporation employee or any other adult member of the Corporation community against a student will be formally investigated.

The Compliance Officers are assigned to accept complaints of unlawful harassment (see definition on page 1) directly from any member of the Corporation community or a visitor to the Corporation, or to receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the member of the Corporation community alleging harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. However, if the alleged harasser is the Superintendent, the recommendations shall be submitted to the Board President.

All Corporation employees must report incidents of unlawful harassment (see definition on page 1) that they observe or that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.

### **Investigation and Complaint Procedure (see Form 5517 F1)**

Any employee or other member of the Corporation community or third party (e.g., visitor to the Corporation) who believes that s/he has been subjected to unlawful harassment (see definition on page 1) may seek resolution of his/her complaint through



either the informal or formal procedures as described below. Further, a process for investigating claims of unlawful harassment (see definition on page 1) and a process for rendering a decision regarding whether the claim of unlawful harassment (see definition on page 1) was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment (see definition on page 1), time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR) or the Indiana Civil Rights Commission (ICRC), or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and/or unlawful harassment (see definition on page 1), and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully harassed or retaliated against in the Corporation's educational opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs, and activities, affecting the Corporation environment. This informal procedure is not required as a precursor to the filing of a formal complaint and/or filing a concurrent criminal complaint and will be utilized only where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.

Students who believe that they have been unlawfully harassed (see definition on page 1) or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the information procedure may request that the informal process be terminated at any time to move to the formal complaint procedure.

However, all complaints of unlawful harassment (see definition on page 1) involving a Corporation employee, any adult member of the Corporation community, or a third party against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed (see definition on page 1) and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officer(s) is/are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed (see definition on page 1) may make an informal complaint, either orally or in writing: 1) to a teacher, other employee, or building administrator; 2) directly to one (1) of the Compliance Officers; and/or 3) to the Superintendent or other Corporation-level employee.

All informal complaints must be reported to one (1) of the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The Corporation's informal complaint procedure is designed to provide employees, other members of the Corporation community or third parties who believe they are being subjected to unlawful harassment (see definition on page 1) with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends school.
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, one (1) of the Compliance Officers or a

designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint, may file a complaint with the United States Department of Education, Office for Civil Rights (OCR) or the Indiana Civil Rights Commission (ICRC), and/or may file a concurrent criminal complaint with the law enforcement agency having jurisdiction. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

One of the Compliance Officers or a designee will retain all materials generated as part of the informal complaint process in accordance with the Board's records retention policy (see Policy 8310, Policy 8320 and Policy 8330).

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one (1) of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

The formal complaint process is not intended to interfere with the rights of an employee, other member of the Corporation community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR) or the Indiana Civil Rights Commission (ICRC), and/or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

An individual who believes s/he has been subjected to offensive conduct/harassment/retaliation hereinafter referred to as the "Complainant", may file a formal complaint, either orally or in writing with a teacher, principal, the Compliance Officer, Superintendent, or other Corporation-level employee. Due to the sensitivity surrounding complaints of unlawful harassment (see definition on page 1) and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, Superintendent, or other Corporation-level employee, either orally or in writing, about any complaint of harassment or retaliation, the employee to whom the student reports the complaint must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints of unlawful harassment (see definition on page 1) or retaliation must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview and the Complainant will be asked to verify the accuracy of the reported complaint by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation, including but not limited to a change of building or class assignment or class schedule for the Complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the Complainant to assess his/her agreement to any action deemed appropriate. If the Complainant is unwilling to consent any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deems appropriate in consultation with the Superintendent and/or Board Attorney.

Within two (2) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/unlawful harassment/retaliation.

Contemporaneously, one of the Compliance Officers or a designee will inform the individual alleged to have engaged in the harassing or retaliatory conduct, hereinafter referred to as the "Respondent", that a complaint has been received. The Respondent will be informed about the nature of the allegations and a copy of the Board's anti-harassment policy shall be provided to the Respondent. The Respondent also must be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, one (1) of the Compliance Officers or a designee will attempt to complete an investigation into the allegations of harassment or retaliation within fifteen (15) business days of receiving the formal complaint.

The investigation will include:

- A. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;  
and
- D. consideration of any documentation or other information, presented by the Complainant, Respondent, or any other witnesses that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment (see definition on page 1) or retaliation. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of the evidence standard will be used (i.e., it is more likely than not that unlawful harassment or retaliation occurred).

Absent extenuating circumstances, within five (5) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a decision regarding whether the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's decision will be delivered to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a written decision as described above.

A Complainant or respondent who is dissatisfied with the decision of the Superintendent may appeal through a signed written statement to the Board of School Trustees within five (5) business days of his/her receipt of the Superintendent's decision.

If the Superintendent is the Respondent, the appeal process will skip the review by the Superintendent and move directly to the Board. In such circumstances, the Compliance Officer, or the designee, shall prepare and deliver a written report to the Board that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment (see definition on page 1) or retaliation.

The Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of a written request to appeal. At this meeting, the parties have the right to present evidence, including testimony and/or exhibits, to the Board in support of their position. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the Corporation community or third party alleging the unlawful harassment/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The Complainant and the Respondent may be represented, at his/her own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the Indiana Civil Rights Commission, or the filing of a concurrent criminal complaint. Use of the complaint procedures is not a prerequisite to the pursuit of other remedies. Furthermore, the complaint must be investigated even if a separate investigation is being conducted by another agency, including but not limited to the local police department.

### **Privacy/Confidentiality**

The Corporation will employ all reasonable efforts to protect the privacy of the Complainant, the Respondent(s) (that is the individual(s) against whom the complaint is filed), and the witnesses to the extent possible, consistent with the Corporation's legal obligations to investigate, to take appropriate action, and comply with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed.

All Complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the Respondent(s).

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the Corporation community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

### **Remediation**

In cases where the complaint investigation results in a finding that the allegation of unlawful harassment/retaliation is substantiated, action must be taken by the Compliance Officer to remedy the past effects of such unlawful harassment/retaliation on a student. This may include but is not limited to providing a contact person to monitor the student, providing tutoring to the student, allowing the student to retake tests or assignments, and counseling.

### **Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against unlawful harassment (see definition on page 1)/retaliation by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s), if any. Any discipline of students with disabilities will be in accordance with the Individuals with Disabilities Education Act ("IDEA") and the Federal and State regulations implementing the IDEA.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s), if any, and with Federal and State laws and regulations.

All subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects. Prior sanctions imposed on the Respondent(s) for similar past conduct shall be considered in determining the appropriateness of the sanction(s) imposed for the present conduct.

### **Retention of Public Records, Student Records, and Investigatory Records and Materials**

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including but not limited to complaints, responses, witness statements, documentary evidence, audio, video and/or digital recordings, handwritten and contemporaneous notes, e-mails related to the investigation and allegations, printouts, letters, determinations, and summaries. The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, Policy 8330 and the Corporation's records retention schedule.

### **Retaliation**

Any act of retaliation against a person who has made a report, filed a complaint alleging unlawful harassment, or participated as a witness in a harassment investigation is prohibited.

Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten, or interfere with any individual because the person opposed any act or practice of unlawful harassment (see definition on page 1), or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing pertaining to unlawful harassment, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Federal or State laws.

Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.

### **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim

of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Child Services, Office of Child Protective Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant or the alleged victim, a report of such knowledge must be made in accordance with State law and Board Policy.

If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined under State law, such knowledge should be reported to local law enforcement.

Any reports made to Child Protective Services or to local law enforcement shall not terminate the Compliance Officer's or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies.

### **Education and Training**

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Compliance Officers will oversee training of Corporation employees and students so that they understand their rights and responsibilities under Federal and State law and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law. All training regarding the Board's policy and administrative guidelines and harassment in general will be age and content appropriate.

### **Notice**

Notice of the Board's policy on anti-harassment related to employment practices and the identity of the Compliance Officers will be posted throughout the Corporation, and published in any Corporation statement regarding the availability of employment, in any staff handbooks, and in general information publications of the Corporation as required by Federal and State law and this policy.

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### **Legal**

I.C. 35-42-4-3, 35-42-4-8, 35-42-4-9

20 U.S.C. 1400 et seq., the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)

20 U.S.C. 1681 et seq., Title IX of the Education Amendments Act of 1972

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973, as amended

42 U.S.C. 1983

42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964

42 U.S.C. 2000e et seq., Titles VII of the Civil Rights Act of 1964

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

29 C.F.R. Part 1635

National School Boards Association Inquiry and Analysis - May 2008

# Exhibit 15

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**Policy 1623 - Section 504/ADA Prohibition Against Disability Discrimination in Employment (Revised)**

**Policy 3123 - Section 504/ADA Prohibition Against Disability Discrimination in Employment (Revised)**

**Policy 4123 - Section 504/ADA Prohibition Against Disability Discrimination in Employment (Revised)**



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
Code	po1623
Status	Work Session
Adopted	March 15, 2012

### 1623 - SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

The Board of School Trustees prohibits discrimination against any employee or applicant based upon his/her disability. As such, the Board will not engage in employment practices or adopt policies that discriminate on the basis of disability, or otherwise discriminate against qualified individuals with disabilities in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training, or other terms, conditions and privileges of employment. The Board further will not limit, segregate or classify applicants or employees in any way that adversely affects their opportunities or status because of disability. Additionally, the Board will not participate in any contractual or other relationships that have the effect of subjecting qualified individuals with disabilities who are applicants or employees to discrimination on the basis of disability.

"An individual with a disability" means a person who has, or has a record of, a physical or mental impairment that substantially limits one or more major life activities. Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, sitting, reaching, interacting with others, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, use of assistive technology, reasonable accommodations or "auxiliary aides or services," learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

A qualified person with a disability means the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of the job in question.

The Board will provide a reasonable accommodation to a qualified individual who has an actual disability or who has a record of a disability, unless the accommodation would impose an undue hardship on the operation of the Corporation's program and/or activities. A reasonable accommodation is not necessarily required for an individual who is merely regarded as having a disability.

**Corporation Compliance Officer**

The following person(s) is/are designated as the Corporation Section 504 Compliance Officer(s)/ADA Coordinator(s) ("Corporation Compliance Officer(s)");

[Jonathan Mock](#)  
[Director of Human Resources & Compliance](#)  
[32 East 7th Street](#)  
[Hobart, IN 46342](#)  
[\(219\) 942-8885 Ext. 1](#)  
[jmock@hobart.k12.in.us](mailto:jmock@hobart.k12.in.us)  
 Director of School Safety  
 2211 East Tenth Street, Hobart, IN 46342  
 219-942-8521  
[ljuzwicki@hobart.k12.in.us](mailto:ljuzwicki@hobart.k12.in.us)

The Corporation Compliance Officer is responsible for coordinating the Corporation's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the Americans with Disabilities Act, as amended ("ADA"). A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the Corporation Compliance Officer.

The Corporation Compliance Officer(s) will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board's adopted internal complaint procedure, and will attempt to resolve such complaints. The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA.

### **Training**

The Corporation Compliance Officer(s) will also oversee the training of employees in the Corporation so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative guidelines and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

The Board will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

### **Facilities**

No qualified person with a disability will, because the Corporation's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

For facilities constructed or altered after June 3, 1977, the Corporation will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the Corporation is committed to operating its programs and activities so that they are readily accessible to persons with disabilities.

### **Notice**

Notice of the Board's policy on nondiscrimination in employment practices and the identity of the Corporation's Compliance Officer(s) will be posted throughout the Corporation, and published in the Corporation's recruitment statements or general information publications.

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Legal	29 C.F.R. Part 1630
	29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended
	34 C.F.R. Part 104
	42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended





Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
Code	po3123
Status	Work Session
Adopted	March 15, 2012

### 3123 - SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

The Board of School Trustees prohibits discrimination against any employee or applicant based upon his/her disability. As such, the Board will not engage in employment practices or adopt policies that discriminate on the basis of disability, or otherwise discriminate against qualified individuals with disabilities in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training, or other terms, conditions and privileges of employment. The Board further will not limit, segregate or classify applicants or employees in any way that adversely affects their opportunities or status because of disability. Additionally, the Board will not participate in any contractual or other relationships that have the effect of subjecting qualified individuals with disabilities who are applicants or employees to discrimination on the basis of disability.

"An individual with a disability" means a person who has, or has a record of, a physical or mental impairment that substantially limits one or more major life activities. Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, sitting, reaching, interacting with others, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, use of assistive technology, reasonable accommodations or "auxiliary aides or services," learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

A qualified person with a disability means the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of the job in question.

The Board will provide a reasonable accommodation to a qualified individual who has an actual disability or who has a record of a disability, unless the accommodation would impose an undue hardship on the operation of the Corporation's program and/or activities. A reasonable accommodation is not required for an individual who is merely regarded as having a disability.

#### Corporation Compliance Officer

The following person(s) is/are designated as the Corporation Section 504 Compliance Officer(s)/ADA Coordinator(s) ("Corporation Compliance Officer(s)"):

Jonathan Mock  
Director of Human Resources & Compliance  
32 East 7th Street  
Hobart, IN 46342  
(219) 942-8885 Ext. 1  
[jmock@hobart.k12.in.us](mailto:jmock@hobart.k12.in.us)  
~~Director of School Safety~~  
~~2211 East Tenth Street, Hobart, IN 46342~~  
~~219-942-8521~~  
~~[ljuzwicky@hobart.k12.in.us](mailto:ljuzwicky@hobart.k12.in.us)~~

The Corporation Compliance Officer is responsible for coordinating the Corporation's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the Americans with Disabilities Act, as amended ("ADA"). A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the Corporation Compliance Officer.

The Corporation Compliance Officer(s) will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board's adopted internal complaint procedure, and will attempt to resolve such complaints. The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA.

### **Training**

The Corporation Compliance Officer(s) will also oversee the training of employees in the Corporation so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative guidelines and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

The Board will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

### **Facilities**

No qualified person with a disability will, because the Corporation's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

For facilities constructed or altered after June 3, 1977, the Corporation will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the Corporation is committed to operating its programs and activities so that they are readily accessible to persons with disabilities.

### **Notice**

Notice of the Board's policy on nondiscrimination in employment practices and the identity of the Corporation's Compliance Officer(s) will be posted throughout the Corporation, and published in the Corporation's recruitment statements or general information publications.

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Legal	29 C.F.R. Part 1630
	29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended
	34 C.F.R. Part 104
	42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended



Book	Policy Manual
Section	Policies for the Board - 33-1
Title	Copy of SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
Code	po4123
Status	Work Session
Adopted	March 15, 2012

#### 4123 - SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

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